

CONFERENCE COMMITTEE REPORT FORM

Austin, Texas

May 20, 1905

Date


Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives


Sirs:

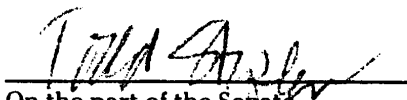
We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on _____ have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.



Senator Dyer

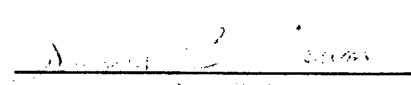

Senator Dyer

Senator West


Senator Dyer

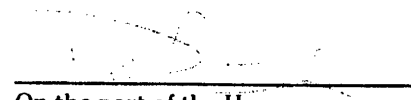

On the part of the Senate
Speaker Craddick


Representative Pitts


Representative Pitts

Representative Dukes

Representative Isott


On the part of the House
Representative Dukes

Note to Conference Committee Clerk:

Please type the names of the members of the Conference Committee under the lines provided for signature. Those members desiring to sign the report should sign each of the six copies. Attach a copy of the Conference Committee Report and a Section by Section side by side comparison to each of the six reporting forms. The original and two copies are filed in house of origin of the bill, and three copies in the other house.

CONFERENCE COMMITTEE REPORT

3rd Printing

S.B. No. 1863

A BILL TO BE ENTITLED

AN ACT

relating to certain fiscal matters affecting governmental
entities; providing a penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

ARTICLE 1. REGISTRATION FEE FOR CERTAIN LOBBYISTS

SECTION 1.01. Subsection (c), Section 305.005, Government
Code, is amended to read as follows:

(c) The registration fee and registration renewal fee are:

(1) \$100 for a registrant employed by an organization
exempt from federal income tax under Section 501(c)(3) or
501(c)(4), Internal Revenue Code of 1986; or

(2) \$500 [~~\$300~~] for any other registrant.

SECTION 1.02. This article takes effect December 1, 2005.

ARTICLE 2. CERTAIN AUDITS OF STATE AGENCY EXPENDITURES

SECTION 2.01. Subtitle C, Title 10, Government Code, is
amended by adding Chapter 2115 to read as follows:

CHAPTER 2115. RECOVERY OF CERTAIN STATE AGENCY OVERPAYMENTS

Sec. 2115.001. DEFINITIONS. In this chapter:

(1) "Overpayment" includes a duplicate payment made to
a vendor for a single invoice and a payment made to a vendor:

(A) when an available discount from the vendor
was not applied;

(B) for a late payment penalty that was
improperly applied by the vendor;

1 (C) for shipping costs that were computed
2 incorrectly or incorrectly included in an invoice;

3 (D) for state sales tax; or

4 (E) for a good or service the vendor did not
5 provide.

6 (2) "State agency" means a department, commission,
7 board, office, or other agency, including a university system or an
8 institution of higher education other than a public junior college,
9 that:

10 (A) is in the executive branch of state
11 government;

12 (B) is created by statute; and

13 (C) does not have statutory geographical
14 boundaries limited to a part of the state.

15 Sec. 2115.002. CONTRACT CONSULTANTS FOR RECOVERY AUDITS FOR
16 CERTAIN OVERPAYMENTS. (a) The comptroller shall contract with one
17 or more consultants to conduct recovery audits of payments made by
18 state agencies to vendors. The audits must be designed to detect
19 and recover overpayments to the vendors and to recommend improved
20 state agency accounting operations.

21 (b) A contract under this section:

22 (1) may provide for reasonable compensation for
23 services provided under the contract, including compensation
24 determined by the application of a specified percentage of the
25 total amount recovered because of the consultant's audit activities
26 or recommendations as a fee for services;

27 (2) may permit or require the consultant to pursue a

judicial action in a court inside or outside this state to recover
an overpaid amount; and

(3) to allow time for the performance of existing
state payment auditing procedures, may not allow a recovery audit
of a payment during the 180-day period after the date the payment
was made.

(c) The comptroller or a state agency whose payments are
being audited may provide a person acting under a contract
authorized by this section with any confidential information in the
custody of the comptroller or state agency that is necessary for the
performance of the audit or the recovery of an overpayment, to the
extent the comptroller and state agency are not prohibited from
sharing the information under an agreement with another state or
the federal government. A person acting under a contract
authorized by this section, and each employee or agent of the
person, is subject to all prohibitions against the disclosure of
confidential information obtained from the state in connection with
the contract that apply to the comptroller or applicable state
agency or an employee of the comptroller or applicable state
agency. A person acting under a contract authorized by this section
or an employee or agent of the person who discloses confidential
information in violation of a prohibition made applicable to the
person under this subsection is subject to the same sanctions and
penalties that would apply to the comptroller or applicable state
agency or an employee of the comptroller or applicable state agency
for that disclosure.

Sec. 2115.003. STATE AGENCIES SUBJECT TO MANDATORY RECOVERY

1 AUDITS. (a) The comptroller shall require that recovery audits be
2 performed on the payments to vendors made by each state agency that
3 has total expenditures during a state fiscal biennium in an amount
4 that exceeds \$100 million. Each state agency described by this
5 subsection shall provide the recovery audit consultant with all
6 information necessary for the audit.

7 (b) The comptroller may exempt from the mandatory recovery
8 audit process a state agency that has a low proportion of its
9 expenditures made to vendors, according to criteria the comptroller
10 adopts by rule after consideration of the likely costs and benefits
11 of performing recovery audits for agencies that make relatively few
12 or small payments to vendors.

13 Sec. 2115.004. PAYMENT TO CONTRACTORS. (a) A state agency
14 shall pay, from recovered money appropriated for the purpose, the
15 recovery audit consultant responsible for obtaining for the agency
16 a reimbursement from a vendor.

17 (b) A state agency shall expend or return to the federal
18 government any federal money that is recovered through a recovery
19 audit conducted under this chapter. The state agency shall expend
20 or return the federal money in accordance with the rules of the
21 federal program through which the agency received the federal
22 money.

23 Sec. 2115.005. FORWARDING REPORTS. (a) The comptroller
24 shall provide copies, including electronic form copies, of any
25 reports received from a consultant contracting under Section
26 2115.002 to:

27 (1) the governor;

1 (2) the state auditor's office; and

2 (3) the Legislative Budget Board.

3 (b) The comptroller shall provide the copies required by
4 Subsection (a) not later than the seventh day after the date the
5 comptroller receives the consultant's report.

6 (c) Not later than January 1 of each odd-numbered year, the
7 comptroller shall issue a report to the legislature summarizing the
8 contents of all reports received under this chapter during the
9 state fiscal biennium ending August 31 of the previous year.

10 SECTION 2.02. The comptroller of public accounts shall
11 adopt rules under Chapter 2115, Government Code, as added by this
12 article, in a timely manner so that the comptroller may begin
13 contracting with a consultant under that chapter not later than
14 January 1, 2006.

15 ARTICLE 3. ELIGIBILITY FOR MEDICAL ASSISTANCE
16 AND CHILDREN'S HEALTH INSURANCE PROGRAMS

17 SECTION 3.01. Section 62.102, Health and Safety Code, is
18 amended to read as follows:

19 Sec. 62.102. CONTINUOUS COVERAGE. ~~[(a)]~~ The commission
20 shall provide that an individual who is determined to be eligible
21 for coverage under the child health plan remains eligible for those
22 benefits until the earlier of:

23 (1) the end of the six-month [a] period~~[, not to exceed~~
24 ~~12 months,~~] following the date of the eligibility determination; or

25 (2) the individual's 19th birthday.

26 ~~[(b) The period of continuous eligibility may be~~
27 ~~established at an interval of 6 months beginning immediately upon~~

~~passage of this Act and ending September 1, 2005, at which time an interval of 12 months of continuous eligibility will be re-established.]~~

SECTION 3.02. Section 32.0261, Human Resources Code, is amended to read as follows:

Sec. 32.0261. CONTINUOUS ELIGIBILITY. The department shall adopt rules in accordance with 42 U.S.C. Section 1396a(e)(12), as amended, to provide for a period of continuous eligibility for a child under 19 years of age who is determined to be eligible for medical assistance under this chapter. The rules shall provide that the child remains eligible for medical assistance, without additional review by the department and regardless of changes in the child's resources or income, until the earlier of:

(1) the end of the six-month period following ~~[first anniversary of]~~ the date on which the child's eligibility was determined; or

(2) the child's 19th birthday.

SECTION 3.03. If before implementing any provision of this article a state agency determines that a waiver or authorization from a federal agency is necessary for implementation of that provision, the agency affected by the provision shall request the waiver or authorization and may delay implementing that provision until the waiver or authorization is granted.

ARTICLE 4. WAIVER OF AND SUPPLEMENTAL HEALTH COVERAGE FOR STATE EMPLOYEES

SECTION 4.01. Subsection (a), Section 1551.104, Insurance Code, is amended to read as follows:

(a) Subject to Sections 1551.101 and 1551.102, each full-time employee is covered automatically by the basic coverage plan for employees and each annuitant is covered by the basic coverage plan for annuitants unless:

(1) participation is specifically waived as provided by Section 1551.1045;

(2) the employee or annuitant is expelled from the program under Section 1551.351; or

(3) eligibility is otherwise limited by this chapter.

SECTION 4.02. Subchapter C, Chapter 1551, Insurance Code, is amended by adding Section 1551.1045 to read as follows:

Sec. 1551.1045. WAIVER. (a) Subject to Subsections (b) and (c), an employee or annuitant may waive in writing any coverage provided under this chapter.

(b) To waive coverage under the basic coverage plan for employees, a full-time employee must demonstrate, in the manner required by the board of trustees, that the employee is:

(1) covered by another health benefit plan that provides substantially equivalent coverage, as determined by the board of trustees, to the coverage provided to employees by the basic coverage plan; or

(2) eligible for benefits under the TRICARE Military Health System.

(c) To waive coverage under the basic coverage plan for annuitants for the purpose of eligibility for an incentive payment under Section 1551.222, an annuitant must demonstrate, in the manner required by the board of trustees, that the annuitant is:

1 (1) covered by another health benefit plan that
2 provides substantially equivalent coverage, as determined by the
3 board of trustees, to the coverage provided to annuitants by the
4 basic coverage plan; or

5 (2) eligible for benefits under the TRICARE Military
6 Health System.

7 SECTION 4.03. Subchapter E, Chapter 1551, Insurance Code,
8 is amended by adding Sections 1551.221 and 1551.222 to read as
9 follows:

10 Sec. 1551.221. OPTIONAL SUPPLEMENTAL HEALTH COVERAGE FOR
11 INDIVIDUALS ELIGIBLE UNDER TRICARE MILITARY HEALTH SYSTEM. (a)
12 The board of trustees shall offer, as an optional coverage under the
13 group benefits program, a supplemental health coverage program.

14 (b) Under the supplemental health coverage program, an
15 employee or annuitant who is eligible to participate in the group
16 benefits program and who is also eligible for benefits under the
17 TRICARE Military Health System may elect to receive primary
18 coverage under the TRICARE Military Health System. An employee or
19 annuitant participating in the supplemental health coverage
20 program must waive basic coverage through the group benefits
21 program, but receives supplemental health coverage under this
22 section.

23 (c) The cost of supplemental health coverage provided under
24 this section may be paid in the same manner as the cost of other
25 optional coverage is paid under Subchapter G.

26 (d) The board of trustees shall contract to purchase the
27 supplemental health coverage in accordance with Sections

1 1551.213-1551.216.

2 (e) The board of trustees may adopt rules to implement this
3 section.

4 Sec. 1551.222. INCENTIVE PAYMENTS. (a) The board of
5 trustees may allow an incentive payment under this section to an
6 employee or annuitant who elects to waive coverage under the basic
7 coverage plan for employees or annuitants as provided by Section
8 1551.1045(b) or (c).

9 (b) The incentive payment authorized by this section is in
10 the amount authorized by the General Appropriations Act and may be
11 used by the employee or annuitant, in the manner prescribed by the
12 board of trustees, only to pay for other group coverage plans
13 provided under the group benefits program, including the
14 supplemental health coverage offered under Section 1551.221.

15 (c) The board of trustees, at the time of initial enrollment
16 in the group benefits program and during subsequent open-enrollment
17 periods, shall inform employees and annuitants that they may make
18 an election described by Subsection (a), if eligible, and receive
19 any authorized incentive payment.

20 SECTION 4.04. Subchapter G, Chapter 1551, Insurance Code,
21 is amended by adding Section 1551.324 to read as follows:

22 Sec. 1551.324. REDUCTION IN CONTRIBUTION FOR CERTAIN ACTIVE
23 EMPLOYEES AND ANNUITANTS; INCENTIVE PAYMENTS. (a) Notwithstanding
24 any other provision of this subchapter, the state contribution for
25 an employee's coverage or an annuitant's coverage under this
26 chapter may be reduced, as provided in the General Appropriations
27 Act, to reflect the reduced cost of coverage for an employee or

1 annuitant who elects to waive basic coverage as provided by Section
2 1551.1045(b) or (c).

3 (b) Instead of the full state contribution for an employee
4 or annuitant who makes an election described by Subsection (a), the
5 state may contribute, as specified by the General Appropriations
6 Act, an amount for the incentive payment authorized by Section
7 1551.222.

8 ARTICLE 5. EXTENDING STATE REIMBURSEMENT PROGRAM: PETROLEUM
9 STORAGE TANKS

10 SECTION 5.01. Subsection (f), Section 26.351, Water Code,
11 is amended to read as follows:

12 (f) The person performing corrective action under this
13 section, if the release was reported to the commission on or before
14 December 22, 1998, shall meet the following deadlines:

15 (1) a complete site assessment and risk assessment
16 (including, but not limited to, risk-based criteria for
17 establishing target concentrations), as determined by the
18 executive director, must be received by the agency no later than
19 September 1, 2002;

20 (2) a complete corrective action plan, as determined
21 by the executive director and including, but not limited to,
22 completion of pilot studies and recommendation of a cost-effective
23 and technically appropriate remediation methodology, must be
24 received by the agency no later than September 1, 2003. The person
25 may, in lieu of this requirement, submit by this same deadline a
26 demonstration that a corrective action plan is not required for the
27 site in question under commission rules. Such demonstration must

1 be to the executive director's satisfaction;

2 (3) for those sites found under Subdivision (2) to
3 require a corrective action plan, that plan must be initiated and
4 proceeding according to the requirements and deadlines in the
5 approved plan no later than March 1, 2004;

6 (4) for sites which require either a corrective action
7 plan or groundwater monitoring, a comprehensive and accurate annual
8 status report concerning those activities must be submitted to the
9 agency;

10 (5) for sites which require either a corrective action
11 plan or groundwater monitoring, all deadlines set by the executive
12 director concerning the corrective action plan or approved
13 groundwater monitoring plan shall be met; and

14 (6) for sites that require either a corrective action
15 plan or groundwater monitoring, have met all other deadlines under
16 this subsection, and have submitted annual progress reports that
17 demonstrate progress toward meeting closure requirements, a site
18 closure request must be submitted to ~~[requests for all sites where]~~
19 ~~the executive director [agreed in writing that no corrective action~~
20 ~~plan was required must be received by the agency]~~ no later than
21 September 1, 2007 ~~[2005]~~. The request must be complete, as judged
22 by the executive director.

23 SECTION 5.02. Subsection (b), Section 26.355, Water Code,
24 is amended to read as follows:

25 (b) An owner or operator of an underground or aboveground
26 storage tank from which a regulated substance is released is liable
27 to the state unless:

1 (1) the release was caused by:

2 (A) ~~[(1)]~~ an act of God;

3 (B) ~~[(2)]~~ an act of war;

4 (C) ~~[(3)]~~ the negligence of the State of
5 Texas or the United States; or

6 (D) ~~[(4)]~~ an act or omission of a third
7 party; or

8 (2) the site at which the release occurred has been
9 admitted into the petroleum storage tank state-lead program under
10 Section 26.3573(r-1).

11 SECTION 5.03. Subsection (b), Section 26.35731, Water Code,
12 is amended to read as follows:

13 (b) The commission has discretion whether to postpone
14 considering, processing, or paying ~~[may not consider, process, or~~
15 ~~pay]~~ a claim for reimbursement from the petroleum storage tank
16 remediation account for corrective action work begun without prior
17 commission approval after September 1, 1993, and filed with the
18 commission prior to January 1, 2005 ~~[without prior commission~~
19 ~~approval until all claims for reimbursement for corrective action~~
20 ~~work preapproved by the commission have been considered, processed,~~
21 ~~and paid].~~

22 SECTION 5.04. Section 26.3573, Water Code, is amended by
23 amending Subsections (d), (r), and (s) and adding Subsection (r-1)
24 to read as follows:

25 (d) The commission may use the money in the petroleum
26 storage tank remediation account to pay:

27 (1) necessary expenses associated with the

1 administration of the petroleum storage tank remediation account
2 and the groundwater protection cleanup program[, ~~not to exceed an~~
3 ~~amount equal to: 11.8 percent of the gross receipts of that account~~
4 ~~for FY02/03, 16.40 percent of the gross receipts of that account for~~
5 ~~FY04/05, and 21.1 percent of the gross receipts of that account for~~
6 ~~FY06/07~~];

7 (2) expenses associated with investigation, cleanup,
8 or corrective action measures performed in response to a release or
9 threatened release from a petroleum storage tank, whether those
10 expenses are incurred by the commission or pursuant to a contract
11 between a contractor and an eligible owner or operator as
12 authorized by this subchapter; and

13 (3) subject to the conditions of Subsection (e) [~~of~~
14 ~~this section~~], expenses associated with investigation, cleanup, or
15 corrective action measures performed in response to a release or
16 threatened release of hydraulic fluid or spent oil from hydraulic
17 lift systems or tanks located at a vehicle service and fueling
18 facility and used as part of the operations of that facility.

19 (r) Except as provided by Subsection (r-1), the [~~The~~
20 petroleum storage tank remediation account may not be used to
21 reimburse any person for corrective action performed after
22 September 1, 2005.

23 (r-1) In this subsection, "state-lead program" means the
24 petroleum storage tank state-lead program administered by the
25 commission. The executive director shall grant an extension for
26 corrective action reimbursement to a person who is an eligible
27 owner or operator under Section 26.3571. The petroleum storage

1 tank remediation account may be used to reimburse an eligible owner
2 or operator for corrective action performed under an extension
3 before August 31, 2007. Not later than July 1, 2007, an eligible
4 owner or operator who is granted an extension under this subsection
5 may apply to the commission in writing using a form provided by the
6 commission to have the site subject to corrective action placed in
7 the state-lead program. The eligible owner or operator must agree
8 in the application to allow site access to state personnel and state
9 contractors as a condition of placement in the state-lead program
10 under this subsection. On receiving the application for placement
11 in the state-lead program under this subsection, the executive
12 director by order shall place the site in the state-lead program
13 until the corrective action is completed to the satisfaction of the
14 commission. An eligible owner or operator of a site that is placed
15 in the state-lead program under this subsection is not liable to the
16 commission for any costs related to the corrective action.

17 (s) The petroleum storage tank remediation account may not
18 be used to reimburse any person for corrective action contained in a
19 reimbursement claim filed with the commission after March 1, 2008
20 [~~2006~~].

21 SECTION 5.05. Subsection (b), Section 26.3574, Water Code,
22 is amended to read as follows:

23 (b) A fee is imposed on the delivery of a petroleum product
24 on withdrawal from bulk of that product as provided by this
25 subsection. Each operator of a bulk facility on withdrawal from
26 bulk of a petroleum product shall collect from the person who orders
27 the withdrawal a fee in an amount determined as follows:

1 (1) \$12.50 for each delivery into a cargo tank having a
2 capacity of less than 2,500 gallons for the state fiscal year
3 beginning September 1, 2001, and the state fiscal year beginning
4 September 1, 2002 [FY 02 and FY 03]; and \$10.00 for each delivery
5 into a cargo tank having a capacity of less than 2,500 gallons for
6 the state fiscal year beginning September 1, 2003, through the
7 state fiscal year ending August 31, 2007 [FY 04 and FY 05, \$5.00 for
8 ~~each delivery into a cargo tank having a capacity of less than 2,500~~
9 ~~gallons for FY 06, and \$2.00 for each delivery into a cargo tank~~
10 ~~having a capacity of less than 2,500 gallons for FY 07];~~

11 (2) \$25.00 for each delivery into a cargo tank having a
12 capacity of 2,500 gallons or more but less than 5,000 gallons for
13 the state fiscal year beginning September 1, 2001, and the state
14 fiscal year beginning September 1, 2002 [FY 02 and FY 03]; and
15 \$20.00 for each delivery into a cargo tank having a capacity of
16 2,500 gallons or more but less than 5,000 gallons for the state
17 fiscal year beginning September 1, 2003, through the state fiscal
18 year ending August 31, 2007 [FY 04 and FY 05, \$10.00 for each
19 ~~delivery into a cargo tank having a capacity of 2,500 gallons or~~
20 ~~more but less than 5,000 gallons for FY 06, and \$4.00 for each~~
21 ~~delivery into a cargo tank having a capacity of 2,500 gallons or~~
22 ~~more but less than 5,000 gallons for FY 07];~~

23 (3) \$37.50 for each delivery into a cargo tank having a
24 capacity of 5,000 gallons or more but less than 8,000 gallons for
25 the state fiscal year beginning September 1, 2001, and the state
26 fiscal year beginning September 1, 2002 [FY 02 and FY 03]; and
27 \$30.00 for each delivery into a cargo tank having a capacity of

1 5,000 gallons or more but less than 8,000 gallons for the state
 2 fiscal year beginning September 1, 2003, through the state fiscal
 3 year ending August 31, 2007 [~~FY 04 and FY 05, \$15.00 for each~~
 4 ~~delivery into a cargo tank having a capacity of 5,000 gallons or~~
 5 ~~more but less than 8,000 gallons for FY 06, and \$6.00 for each~~
 6 ~~delivery into a cargo tank having a capacity of 5,000 gallons or~~
 7 ~~more but less than 8,000 gallons for FY 07];~~

8 (4) \$50.00 for each delivery into a cargo tank having a
 9 capacity of 8,000 gallons or more but less than 10,000 gallons for
 10 the state fiscal year beginning September 1, 2001, and the state
 11 fiscal year beginning September 1, 2002 [~~FY 02 and FY 03]; and~~
 12 \$40.00 for each delivery into a cargo tank having a capacity of
 13 8,000 gallons or more but less than 10,000 gallons for the state
 14 fiscal year beginning September 1, 2003, through the state fiscal
 15 year ending August 31, 2007 [~~FY 04 and FY 05, \$20.00 for each~~
 16 ~~delivery into a cargo tank having a capacity of 8,000 gallons or~~
 17 ~~more but less than 10,000 gallons for FY 06, and \$8.00 for each~~
 18 ~~delivery into a cargo tank having a capacity of 8,000 gallons or~~
 19 ~~more but less than 10,000 gallons for FY 07]; and~~

20 (5) a \$25.00 fee for each increment of 5,000 gallons or
 21 any part thereof delivered into a cargo tank having a capacity of
 22 10,000 gallons or more for the state fiscal year beginning
 23 September 1, 2001, and the state fiscal year beginning September 1,
 24 2002 [~~FY 02 and FY 03]; and~~ \$20.00 for each increment of 5,000
 25 gallons or any part thereof delivered into a cargo tank having a
 26 capacity of 10,000 gallons or more for the state fiscal year
 27 beginning September 1, 2003, through the state fiscal year ending

1 August 31, 2007 [~~FY 04 and FY 05, \$10.00 for each increment of 5,000~~
2 ~~gallons or any part thereof delivered into a cargo tank having a~~
3 ~~capacity of 10,000 gallons or more for FY 06, and \$4.00 for each~~
4 ~~increment of 5,000 gallons or any part thereof delivered into a~~
5 ~~cargo tank having a capacity of 10,000 gallons or more for FY 07]~~.

6 SECTION 5.06. Section 26.361, Water Code, is amended to
7 read as follows:

8 Sec. 26.361. EXPIRATION OF REIMBURSEMENT PROGRAM.
9 Notwithstanding any other provision of this subchapter, the
10 reimbursement program established under this subchapter expires
11 September 1, 2008 [~~2006~~]. On or after September 1, 2008 [~~2006~~], the
12 commission may not use money from the petroleum storage tank
13 remediation account to reimburse an eligible owner or operator for
14 any expenses of corrective action or to pay the claim of a person
15 who has contracted with an eligible owner or operator to perform
16 corrective action.

17 SECTION 5.07. This article takes effect September 1, 2005.

18 ARTICLE 6. DRUG PURCHASING FOR STATE AGENCIES

19 SECTION 6.01. Subchapter B, Chapter 531, Government Code,
20 is amended by adding Section 531.080 to read as follows:

21 Sec. 531.080. JOINT PURCHASING OF PRESCRIPTION DRUGS AND
22 OTHER MEDICATIONS. (a) Subject to Subsection (b), the commission
23 and each health and human services agency authorized by the
24 executive commissioner may enter into an agreement with one or more
25 other states for the joint bulk purchasing of prescription drugs
26 and other medications to be used in the Medicaid program, the state
27 child health plan, or another program under the authority of the

1 commission.

2 (b) An agreement under this section may not be entered into
3 until:

4 (1) the commission determines that entering into the
5 agreement would be feasible and cost-effective; and

6 (2) if appropriated money would be spent under the
7 proposed agreement, the governor and the Legislative Budget Board
8 grant prior approval to expend appropriated money under the
9 proposed agreement.

10 (c) If an agreement is entered into, the commission shall
11 adopt procedures applicable to an agreement and joint purchase
12 required by this section. The procedures must ensure that this
13 state receives:

14 (1) all prescription drugs and other medications
15 purchased with money provided by this state; and

16 (2) an equitable share of any price benefits resulting
17 from the joint bulk purchase.

18 (d) In determining the feasibility and cost-effectiveness
19 of entering into an agreement under this section, the commission
20 shall identify:

21 (1) the most cost-effective existing joint bulk
22 purchasing agreement; and

23 (2) any potential groups of states with which this
24 state could enter into a new cost-effective joint bulk purchasing
25 agreement.

26 SECTION 6.02. Not later than January 15, 2006, the Health
27 and Human Services Commission shall determine the feasibility and

1 cost-effectiveness of entering into an agreement under Section
2 531.080, Government Code, as added by this article. If the
3 commission determines that such action is feasible and
4 cost-effective, the commission shall take action to enter into an
5 agreement that takes effect March 1, 2006.

6 SECTION 6.03. If before implementing any provision of this
7 article a state agency determines that a waiver or authorization
8 from a federal agency is necessary for implementation of that
9 provision, the agency affected by the provision shall request the
10 waiver or authorization and may delay implementing that provision
11 until the waiver or authorization is granted.

12 ARTICLE 7. CONTINUATION OF QUALITY ASSURANCE FEES

13 SECTION 7.01. Section 252.209, Health and Safety Code, is
14 repealed.

15 ARTICLE 8. TEXAS MOBILITY FUND

16 SECTION 8.01. Subchapter M, Chapter 201, Transportation
17 Code, is amended by adding Section 201.9471 to read as follows:

18 Sec. 201.9471. TEMPORARY DISPOSITION OF MONEY ALLOCATED TO
19 FUND. (a) Notwithstanding Sections 521.058, 521.313, 521.3466,
20 521.427, 522.029, 524.051, and 724.046, to the extent that those
21 sections allocate money to the Texas mobility fund, in state fiscal
22 year 2006 the comptroller shall deposit that money to the credit of
23 the general revenue fund instead of to the credit of the Texas
24 mobility fund.

25 (b) Notwithstanding Sections 521.313, 521.3466, 521.427,
26 522.029, 524.051, and 724.046, to the extent that those sections
27 allocate money to the Texas mobility fund, in state fiscal year 2007

1 the comptroller shall deposit that money to the credit of the
2 general revenue fund instead of to the credit of the Texas mobility
3 fund.

4 (c) This section expires January 1, 2008.

5 SECTION 8.02. This article takes effect September 1, 2005.

6 ARTICLE 9. TELECOMMUNICATIONS INFRASTRUCTURE FUND

7 SECTION 9.01. Section 57.048, Utilities Code, is amended by
8 adding Subsections (f)-(i) to read as follows:

9 (f) Notwithstanding any other provision of this title, a
10 certificated telecommunications utility may recover from the
11 utility's customers an assessment imposed on the utility under this
12 subchapter after the total amount deposited to the credit of the
13 fund, excluding interest and loan repayments, is equal to \$1.5
14 billion, as determined by the comptroller. A certificated
15 telecommunications utility may recover only the amount of the
16 assessment imposed after the total amount deposited to the credit
17 of the fund, excluding interest and loan repayments, is equal to
18 \$1.5 billion, as determined by the comptroller. The utility may
19 recover the assessment through a monthly billing process.

20 (g) The comptroller shall publish in the Texas Register the
21 date on which the total amount deposited to the credit of the fund,
22 excluding interest and loan repayments, is equal to \$1.5 billion.

23 (h) Not later than February 15 of each year, a certificated
24 telecommunications utility that wants to recover the assessment
25 under Subsection (f) shall file with the commission an affidavit or
26 affirmation stating the amount that the utility paid to the
27 comptroller under this section during the previous calendar year

1 and the amount the utility recovered from its customers in
2 cumulative payments during that year.

3 (i) The commission shall maintain the confidentiality of
4 information the commission receives under this section that is
5 claimed to be confidential for competitive purposes. The
6 confidential information is exempt from disclosure under Chapter
7 552, Government Code.

8 SECTION 9.02. Section 57.0485, Utilities Code, is amended
9 to read as follows:

10 Sec. 57.0485. ALLOCATION OF REVENUE [ACCOUNTS]. ~~[(a)]~~ The
11 comptroller shall deposit ~~[50 percent of]~~ the money collected by
12 the comptroller under Section 57.048 to the credit of the general
13 revenue fund ~~[public schools account in the fund. The comptroller~~
14 ~~shall deposit the remainder of the money collected by the~~
15 ~~comptroller under Section 57.048 to the credit of the qualifying~~
16 ~~entities account in the fund.~~

17 ~~[(b) Interest earned on money in an account shall be~~
18 ~~deposited to the credit of that account].~~

19 SECTION 9.03. Section 57.051, Utilities Code, is amended to
20 read as follows:

21 Sec. 57.051. SUNSET PROVISION. The Telecommunications
22 Infrastructure Fund ~~[Board]~~ is subject to Chapter 325, Government
23 Code (Texas Sunset Act). Unless continued in existence as provided
24 by that chapter, ~~[the board is abolished and]~~ this subchapter
25 expires September 1, 2011 ~~[2005]~~.

26 SECTION 9.04. Section 57.043 and Subsections (c) and (d),
27 Section 57.048, Utilities Code, are repealed.

SECTION 9.05. If, on the day before the effective date of this article, the assessment prescribed by Section 57.048, Utilities Code, is imposed at a rate of less than 1.25 percent, the comptroller shall, on the effective date of this article, reset the rate of the assessment to 1.25 percent.

SECTION 9.06. This article takes effect July 1, 2005, if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for effect on that date, this article takes effect September 1, 2005.

ARTICLE 10. COLLECTION OF CERTAIN COSTS, FEES, AND FINES
IN CRIMINAL CASES

SECTION 10.01. Chapter 103, Code of Criminal Procedure, is amended by adding Article 103.0033 to read as follows:

Art. 103.0033. COLLECTION IMPROVEMENT PROGRAM. (a) In
this article:

(1) "Office" means the Office of Court Administration
of the Texas Judicial System.

(2) "Program" means the program to improve the collection of court costs, fees, and fines imposed in criminal cases, as developed and implemented under this article.

(b) This article applies only to:

(1) a county with a population of 50,000 or greater;
and

(2) a municipality with a population of 100,000 or greater.

(c) Unless granted a waiver under Subsection (h), each

1 county and municipality shall develop and implement a program that
2 complies with the prioritized implementation schedule under
3 Subsection (h). A county program must include district, county,
4 and justice courts.

5 (d) The program must consist of:

6 (1) a component that conforms with a model developed
7 by the office and designed to improve in-house collections through
8 application of best practices; and

9 (2) a component designed to improve collection of
10 balances more than 60 days past due, which may be implemented by
11 entering into a contract with a private attorney or public or
12 private vendor in accordance with Article 103.0031.

13 (e) Not later than June 1 of each year, the office shall
14 identify those counties and municipalities that:

15 (1) have not implemented a program; and

16 (2) are able to implement a program before April 1 of
17 the following year.

18 (f) The comptroller, in cooperation with the office, shall
19 develop a methodology for determining the collection rate of
20 counties and municipalities described by Subsection (e) before
21 implementation of a program. The comptroller shall determine the
22 rate for each county and municipality not later than the first
23 anniversary of the county's or municipality's adoption of a
24 program.

25 (g) The office shall:

26 (1) make available on the office's Internet website
27 requirements for a program; and

1 (2) assist counties and municipalities in
2 implementing a program by providing training and consultation,
3 except that the office may not provide employees for implementation
4 of a program.

5 (h) The office, in consultation with the comptroller, may:

6 (1) use case dispositions, population, revenue data,
7 or other appropriate measures to develop a prioritized
8 implementation schedule for programs; and

9 (2) determine whether it is not cost-effective to
10 implement a program in a county or municipality and grant a waiver
11 to the county or municipality.

12 (i) Each county and municipality shall at least annually
13 submit to the office and the comptroller a written report that
14 includes updated information regarding the program, as determined
15 by the office in cooperation with the comptroller. The report must
16 be in a form approved by the office in cooperation with the
17 comptroller.

18 (j) The comptroller shall periodically audit counties and
19 municipalities to verify information reported under Subsection (i)
20 and confirm that the county or municipality is conforming with
21 requirements relating to the program. The comptroller shall
22 consult with the office in determining how frequently to conduct
23 audits under this section.

24 SECTION 10.02. Section 133.058, Local Government Code, is
25 amended by adding Subsection (e) to read as follows:

26 (e) A municipality or county may not retain a service fee
27 if, during an audit under Section 133.059 of this code or Article

1 103.0033(j), Code of Criminal Procedure, the comptroller
2 determines that the municipality or county is not in compliance
3 with Article 103.0033, Code of Criminal Procedure. The
4 municipality or county may continue to retain a service fee under
5 this section on receipt of a written confirmation from the
6 comptroller that the municipality or county is in compliance with
7 Article 103.0033, Code of Criminal Procedure.

8 SECTION 10.03. Section 133.103, Local Government Code, is
9 amended by amending Subsections (b) and (c) and adding Subsection
10 (c-1) to read as follows:

11 (b) Except as provided by Subsection (c-1), the [The]
12 treasurer shall send 50 percent of the fees collected under this
13 section to the comptroller. The comptroller shall deposit the fees
14 received to the credit of the general revenue fund.

15 (c) Except as provided by Subsection (c-1), the [The]
16 treasurer shall deposit 10 percent of the fees collected under this
17 section in the general fund of the county or municipality for the
18 purpose of improving the efficiency of the administration of
19 justice in the county or municipality. The county or municipality
20 shall prioritize the needs of the judicial officer who collected
21 the fees when making expenditures under this subsection and use the
22 money deposited to provide for those needs.

23 (c-1) The treasurer shall send 100 percent of the fees
24 collected under this section to the comptroller if, during an audit
25 under Section 133.059 of this code or Article 103.0033(j), Code of
26 Criminal Procedure, the comptroller determines that the
27 municipality or county is not in compliance with Article 103.0033,

1 Code of Criminal Procedure. The municipality or county shall
2 continue to dispose of fees as otherwise provided by this section on
3 receipt of a written confirmation from the comptroller that the
4 municipality or county is in compliance with Article 103.0033, Code
5 of Criminal Procedure.

6 SECTION 10.04. (a) Notwithstanding Subsection (e),
7 Article 103.0033, Code of Criminal Procedure, as added by this
8 article, not later than September 1, 2005, the Office of Court
9 Administration of the Texas Judicial System shall identify those
10 counties and municipalities that are able to implement a collection
11 improvement program under Article 103.0033, Code of Criminal
12 Procedure, as added by this article, before April 1, 2006.
13 Beginning June 1, 2006, the Office of Court Administration of the
14 Texas Judicial System shall comply with Subsection (e), Article
15 103.0033, Code of Criminal Procedure, as added by this article.

16 (b) Not later than September 1, 2005, the Office of Court
17 Administration of the Texas Judicial System shall make available on
18 the office's Internet website requirements for a program under
19 Article 103.0033, Code of Criminal Procedure, as added by this
20 article, in accordance with Subsection (g) of Article 103.0033.

21 ARTICLE 11. INTEREST ON CERTAIN TAX REFUNDS

22 SECTION 11.01. Section 111.064, Tax Code, is amended by
23 amending Subsections (a), (c), and (f) and adding Subsection (c-1)
24 to read as follows:

25 (a) Except as otherwise provided by this section, for a
26 refund under this chapter ~~[Subsections (b) and (c), in a~~
27 ~~comptroller's final decision on a claim for refund or in an audit],~~

1 interest is at the rate that is the lesser of the annual rate of
2 interest earned on deposits in the state treasury during December
3 of the previous calendar year, as determined by the comptroller, or
4 the rate set in Section 111.060, and accrues on the amount found to
5 be erroneously paid for a period:

6 (1) beginning on the later of 60 days after the date of
7 payment or the due date of the tax report; and

8 (2) ending on, as determined by the comptroller,
9 either the date of allowance of credit on account of the
10 comptroller's final decision or audit or a date not more than 10
11 days before the date of the refund warrant.

12 (c) For a refund claimed before September 1, 2005, and
13 granted for a report period due on or after January 1, 2000, the
14 rate of interest is the rate set in Section 111.060 [~~granted for a~~
15 ~~report period due on or after January 1, 2000, the rate of interest~~
16 ~~is the rate set in Section 111.060~~].

17 (c-1) A refund, without regard to the date claimed, for a
18 report period due before January 1, 2000, does not accrue interest.

19 (f) A local revenue fund is not subject to Subsections
20 (a)-(c-1) [(a)-(c)]. In this subsection, "local revenue fund"
21 includes a court cost, a fee, a fine, or a similar charge collected
22 by a municipality, a county, or a court of this state and remitted
23 to the comptroller.

24 SECTION 11.02. This article takes effect September 1, 2005.

25 ARTICLE 12. PUBLIC SCHOOL FACILITIES

26 SECTION 12.01. Section 46.033, Education Code, is amended
27 to read as follows:

Sec. 46.033. ELIGIBLE BONDS. Bonds, including bonds issued under Section 45.006, are eligible to be paid with state and local funds under this subchapter if:

(1) the district made payments on the bonds during the 2004-2005 [~~2002-2003~~] school year or taxes levied to pay the principal of and interest on the bonds were included in the district's audited debt service collections for that school year; and

(2) the district does not receive state assistance under Subchapter A for payment of the principal and interest on the bonds.

SECTION 12.02. Subsection (c), Section 46.034, Education Code, is amended to read as follows:

(c) If the amount required to pay the principal of and interest on eligible bonds in a school year is less than the amount of payments made by the district on the bonds during the 2004-2005 ~~[2002-2003]~~ school year or the district's audited debt service collections for that school year, the district may not receive aid in excess of the amount that, when added to the district's local revenue for the school year, equals the amount required to pay the principal of and interest on the bonds.

ARTICLE 13. COMPENSATION FOR CERTAIN STATE EMPLOYEES WHO RETURN TO
STATE EMPLOYMENT

SECTION 13.01. Section 659.042, Government Code, is amended to read as follows:

Sec. 659.042. EXCLUSIONS. The following are not entitled to longevity pay under this subchapter:

1 (1) a member of the legislature;

2 (2) an individual who holds a statewide office that is
3 normally filled by vote of the people;

4 (3) an independent contractor or an employee of an
5 independent contractor;

6 (4) a temporary employee;

7 (5) an officer or employee of a public junior college;
8 ~~[or]~~

9 (6) an academic employee of a state institution of
10 higher education; or

11 (7) a state employee who retired from state employment
12 on or after June 1, 2005, and who receives an annuity based wholly
13 or partly on service as a state officer or state employee in a
14 public retirement system, as defined by Section 802.001, that was
15 credited to the state employee.

16 SECTION 13.02. Subsection (a), Section 659.043, Government
17 Code, is amended to read as follows:

18 (a) A state employee is entitled to longevity pay to be
19 included in the employee's monthly compensation if the employee:

20 (1) is a full-time state employee on the first workday
21 of the month;

22 (2) is not on leave without pay on the first workday of
23 the month; and

24 (3) has accrued at least two ~~[three]~~ years of lifetime
25 service credit not later than the last day of the preceding month.

26 SECTION 13.03. Section 659.044, Government Code, as amended
27 by Section 32, Chapter 1158, Acts of the 77th Legislature, Regular

1 Session, 2001, and Section 104, Chapter 1158, Acts of the 77th
2 Legislature, Regular Session, 2001, is reenacted and amended to
3 read as follows:

4 Sec. 659.044. AMOUNT. (a) Except as provided by
5 Subsections [~~Subsection~~] (e) and (f), the monthly amount of
6 longevity pay is \$20 for every two [~~three~~] years of lifetime service
7 credit.

8 (b) The amount increases when the 4th, 6th, 8th [~~9th~~], 10th,
9 12th, 14th [~~15th~~], 16th, 18th, 20th [~~21st~~], 22nd, 24th, 26th
10 [~~27th~~], 28th, 30th, 32nd [~~33rd~~], 34th, 36th, 38th [~~39th~~], 40th, and
11 42nd years of lifetime service credit are accrued.

12 (c) An increase is effective beginning with the month
13 following the month in which the 4th, 6th, 8th [~~9th~~], 10th, 12th,
14 14th [~~15th~~], 16th, 18th, 20th [~~21st~~], 22nd, 24th, 26th [~~27th~~],
15 28th, 30th, 32nd [~~33rd~~], 34th, 36th, 38th [~~39th~~], 40th, and 42nd
16 years of lifetime service credit are accrued.

17 (d) An employee may not receive from the state as longevity
18 pay more than the amount determined under Subsection (a) or (e), as
19 applicable, regardless of the number of positions the employee
20 holds or the number of hours the employee works each week.

21 (e) This subsection applies only to an employee of the Texas
22 Youth Commission who is receiving less than the maximum amount of
23 hazardous duty pay that the commission may pay to the employee under
24 Section 659.303. The employee's monthly amount of longevity pay is
25 the sum of:

26 (1) \$4 for each year of lifetime service credit, which
27 may not include any period served in a hazardous duty position; and

(2) the lesser of:

(A) \$4 for each year served in a hazardous duty position; or

(B) the difference between:

(i) \$7 for each year served in a hazardous duty position; and

(ii) the amount paid by the commission for each year served in a hazardous duty position.

(f) A state employee who retired from state employment before June 1, 2005, and who returned to state employment before September 1, 2005, is entitled to receive longevity pay. The monthly amount of longevity pay the employee is entitled to receive equals the amount of longevity pay the employee was entitled to receive immediately before September 1, 2005. A state employee who retired from state employment before June 1, 2005, and who returns to state employment on or after September 1, 2005, is not entitled to receive longevity pay.

SECTION 13.04. Section 659.126, Government Code, is amended to read as follows:

Sec. 659.126. LOSS OF ELIGIBILITY TO RECEIVE BENEFIT REPLACEMENT PAY. (a) An eligible state employee who leaves state employment after August 31, 1995, for at least 30 consecutive days [~~12 consecutive months~~], on returning to state employment or on assuming a state office, is ineligible to receive benefit replacement pay.

(b) An eligible state-paid judge who leaves office after August 31, 1995, for at least 30 consecutive days [~~12 consecutive~~

1 ~~months~~], on return to state office or on accepting a state
2 employment, is ineligible to receive benefit replacement pay.

3 (c) For purposes of Subsection (a), a state employee is not
4 considered to have left state employment:

5 (1) while the state employee is on an unpaid leave of
6 absence as provided by Section 661.909; or

7 (2) during a period of time the employee is not working
8 for the state because the employee's employment with the state
9 customarily does not include that period of time, such as a teacher
10 whose employment does not invariably include the summer months.

11 (d) An eligible state employee who retired from state
12 employment on or after June 1, 2005, and who receives an annuity
13 based wholly or partly on service as a state officer or state
14 employee in a public retirement system, as defined by Section
15 802.001, that was credited to the state employee is ineligible to
16 receive benefit replacement pay.

17 SECTION 13.05. Section 661.152, Government Code, is amended
18 by adding Subsection (1) to read as follows:

19 (1) For purposes of computing vacation leave under
20 Subsection (d) for a state employee who retired from state
21 employment on or after June 1, 2005, and who receives an annuity
22 based wholly or partly on service as a state officer or state
23 employee in a public retirement system, as defined by Section
24 802.001, that was credited to the state employee, years of total
25 state employment includes only the length of state employment after
26 the date the state employee retired.

27 SECTION 13.06. Subsections (a), (b), (c), and (g), Section

1 659.305, Government Code, are amended to read as follows:

2 (a) Except as provided by Subsection (b), the amount of a
3 full-time state employee's hazardous duty pay for a particular
4 month is the lesser of:

5 (1) \$10 [~~\$7~~] for each 12-month period of lifetime
6 service credit accrued by the employee; or

7 (2) \$300 [~~\$210~~].

8 (b) This subsection applies only to a state employee whose
9 compensation for services provided to the state during any month
10 before August 1987 included hazardous duty pay that was based on
11 total state service performed before May 29, 1987. The amount of a
12 full-time state employee's hazardous duty pay for a particular
13 month is the sum of:

14 (1) \$10 [~~\$7~~] for each 12-month period of state service
15 credit the employee finished accruing before May 29, 1987; and

16 (2) \$10 [~~\$7~~] for each 12-month period of lifetime
17 service credit that the employee accrued after the date, which must
18 be before May 29, 1987, on which the employee finished accruing the
19 last 12-month period of state service credit.

20 (c) The amount determined under Subsection (b)(2) may not
21 exceed \$300 [~~\$210~~].

22 (g) A state employee may not receive more than \$10 [~~\$7~~] for
23 each 12-month period of lifetime service credit, regardless of:

24 (1) the number of positions the employee holds; or

25 (2) the number of hours the employee works each week.

26 SECTION 13.07. (a) Except as provided by Subsection (b) of
27 this section, the change in law made by this article to Section

1 659.126, Government Code, applies only to a state employee who
2 leaves state employment on or after the effective date of this
3 article. A state employee who leaves state employment before the
4 effective date of this article is governed by the law as it existed
5 on the date the employee left state employment and the former law is
6 continued in effect for that purpose.

7 (b) A state employee who leaves state employment before the
8 effective date of this article is ineligible to receive benefit
9 replacement pay unless the employee returns to state employment
10 before September 30, 2005.

11 SECTION 13.08. This article takes effect September 1, 2005.

12 ARTICLE 14. SYSTEM BENEFIT FUND

13 SECTION 14.01. Subsection (h), Section 39.903, Utilities
14 Code, is amended to read as follows:

15 (h) The commission shall adopt rules for a retail electric
16 provider to determine a reduced rate for eligible customers to be
17 discounted off the standard retail service package as approved by
18 the commission under Section 39.106, or the price to beat
19 established by Section 39.202, whichever is lower. Municipally
20 owned utilities and electric cooperatives shall establish a reduced
21 rate for eligible customers to be discounted off the standard
22 retail service package established under Section 40.053 or 41.053,
23 as appropriate. The reduced rate for a retail electric provider
24 shall result in a total charge that is at least 10 percent and, if
25 sufficient money in the system benefit fund is available, up to 20
26 percent, lower than the amount the customer would otherwise be
27 charged. To the extent the system benefit fund is insufficient to

1 fund the initial 10 percent rate reduction, the commission may
2 increase the fee to an amount not more than 65 cents per megawatt
3 hour, as provided by Subsection (b). If the fee is set at 65 cents
4 per megawatt hour or if the commission determines that
5 appropriations are insufficient to fund the 10 percent rate
6 reduction, the commission may reduce the rate reduction to less
7 than 10 percent. For a municipally owned utility or electric
8 cooperative, the reduced rate shall be equal to an amount that can
9 be fully funded by that portion of the nonbypassable fee proceeds
10 paid by the municipally owned utility or electric cooperative that
11 is allocated to the utility or cooperative by the commission under
12 Subsection (e) for programs for low-income customers of the utility
13 or cooperative. The reduced rate for municipally owned utilities
14 and electric cooperatives under this section is in addition to any
15 rate reduction that may result from local programs for low-income
16 customers of the municipally owned utilities or electric
17 cooperatives.

18 ARTICLE 15. FUNDING OF THE COASTAL PROTECTION FUND AND THE USE OF
19 MONEY IN THE FUND

20 SECTION 15.01. Section 40.152, Natural Resources Code, is
21 amended by adding Subsection (c) to read as follows:

22 (c) Notwithstanding Subsection (a)(9) and the other
23 provisions of this subchapter, the legislature may appropriate to
24 the General Land Office for implementation of the coastal
25 management program under Subchapter F, Chapter 33, and for erosion
26 response projects under Subchapter H, Chapter 33, money from the
27 fund in an amount that exceeds the amount of interest accruing to

1 the fund annually. This subsection expires September 1, 2007.

2 SECTION 15.02. Subsections (a) through (d), Section 40.155,
3 Natural Resources Code, are amended to read as follows:

4 (a) Except as otherwise provided in this section, the rate
5 of the fee shall be 1-1/3 cents [~~two cents~~] per barrel of crude oil
6 until the commissioner certifies that the unencumbered balance in
7 the fund has reached \$20 [~~\$25~~] million. The commissioner shall
8 certify to the comptroller the date on which the unencumbered
9 balance in the fund exceeds \$20 [~~\$25~~] million. The fee shall not be
10 collected or required to be paid on or after the first day of the
11 second month following the commissioner's certification to the
12 comptroller that the unencumbered balance in the fund exceeds \$20
13 [~~\$25~~] million.

14 (b) If the unencumbered balance in the fund falls below \$10
15 [~~\$14~~] million, the commissioner shall certify such fact to the
16 comptroller. On receiving the commissioner's certification, the
17 comptroller shall resume collecting the fee until suspended in the
18 manner provided in Subsection (a) of this section.

19 (c) Notwithstanding the provisions of Subsection (a) or (b)
20 of this section, the fee shall be levied at the rate of four cents
21 per barrel if the commissioner certifies to the comptroller a
22 written finding of the following facts:

23 (1) the unencumbered balance in the fund is less than
24 \$20 [~~\$25~~] million;

25 (2) an unauthorized discharge of oil in excess of
26 100,000 gallons has occurred within the previous 30 days; and

27 (3) expenditures from the fund for response costs and

1 damages are expected to deplete the fund substantially.

2 (d) In the event of a certification to the comptroller under
3 Subsection (c) of this section, the comptroller shall collect the
4 fee at the rate of four cents per barrel until the unencumbered
5 balance in the fund reaches \$20 [~~\$25~~] million or any lesser amount
6 that the commissioner determines is necessary to pay response costs
7 and damages without substantially depleting the fund. The
8 commissioner shall certify to the comptroller the date on which the
9 unencumbered balance in the fund exceeds \$20 [~~\$25~~] million or such
10 other lesser amount. The fee shall not be collected or required to
11 be paid on or after the first day of the second month following the
12 commissioner's certification to the comptroller.

13 ARTICLE 16. REIMBURSEMENT OF EXCESSIVE OR

14 UNFAIRLY DISCRIMINATORY RATES CHARGED BY CERTAIN INSURERS

15 SECTION 16.01. Article 5.144, Insurance Code, is amended by
16 amending Subsection (b) and adding Subsections (b-1) and (b-2) to
17 read as follows:

18 (b) Except as provided by Subsection (d) of this article, if
19 the commissioner determines that an insurer has charged a rate for
20 personal automobile insurance or residential property insurance
21 that is excessive or unfairly discriminatory, as described by
22 Article 5.13-2 [~~ex 5.101~~] of this code, the commissioner may order
23 the insurer to:

24 (1) issue a refund of the excessive or unfairly
25 discriminatory portion of the premium, plus interest on that
26 amount, directly to each affected policyholder if the amount of
27 that portion of the premium is at least 7.5 percent of the total

1 premium charged for the coverage; or

2 (2) if the amount of that portion of the premium is
3 less than 7.5 percent:

4 (A) provide each affected policyholder who
5 renews the policy a future premium discount in the amount of the
6 excessive or unfairly discriminatory portion of the premium, plus
7 interest on that amount; and

8 (B) provide each affected policyholder who does
9 not renew or whose coverage is otherwise terminated a refund in the
10 amount described by Subdivision (1) of this subsection.

11 (b-1) The rate for interest assessed under Subsection (b) of
12 this article is the prime rate for the calendar year in which the
13 order is issued plus six percent. For purposes of this subsection,
14 the prime rate is the prime rate as published in The Wall Street
15 Journal for the first day of the calendar year that is not a
16 Saturday, Sunday, or legal holiday. The interest accrues beginning
17 on the date on which the department first provides the insurer with
18 formal written notice that the insurer's filed rate is excessive or
19 unfairly discriminatory, as determined by the commissioner, and
20 continues to accrue until the refund is paid. An insurer may not be
21 required to pay any interest penalty or refund if the insurer
22 prevails in a final appeal of the commissioner's order under
23 Subchapter D, Chapter 36, of this code.

24 (b-2) An insurer may not claim a premium tax credit to which
25 the insurer is otherwise entitled unless the insurer has complied
26 with this article.

ARTICLE 17. CERTAIN PROVISIONS RELATING TO RETIREMENT SYSTEM

CONTRIBUTIONS AND BENEFITS FOR RETIRED SCHOOL EMPLOYEES

SECTION 17.01. Section 825.404(a), Government Code, is amended to read as follows:

(a) During each fiscal year, the state shall contribute to the retirement system an amount equal to at least six and not more than 10 ~~[eight]~~ percent of the aggregate annual compensation of all members of the retirement system during that fiscal year.

SECTION 17.02. Section 1575.203(a), Insurance Code, is amended to read as follows:

(a) Each state fiscal year, each active employee shall, as a condition of employment, contribute to the fund an amount equal to 0.65 ~~[0.5]~~ percent of the employee's salary.

SECTION 17.03. The change in law made by this article to Section 1575.203, Insurance Code, takes effect September 1, 2005.

ARTICLE 18. COMPENSATION SUPPLEMENTATION FOR CERTAIN SCHOOL EMPLOYEES

SECTION 18.01. Sections 22.004(a), (b), (c), (i), and (j), Education Code, are amended to read as follows:

(a) A district shall participate in the uniform group coverage program established under Chapter 1579 ~~[Article 3.50-7]~~, Insurance Code, as provided by Subchapter D ~~[Section 5]~~ of that chapter ~~[article]~~.

(b) A district that does not participate in the program described by Subsection (a) shall make available to its employees group health coverage provided by a risk pool established by one or more school districts under Chapter 172, Local Government Code, or

1 under a policy of insurance or group contract issued by an insurer,
2 a company subject to Chapter 842, Insurance Code, or a health
3 maintenance organization under Chapter 843, Insurance Code. The
4 coverage must meet the substantive coverage requirements of Chapter
5 1251, Subchapter A, Chapter 1364, and Subchapter A, Chapter 1366
6 [Article 3.51-6], Insurance Code, and any other law applicable to
7 group health insurance policies or contracts issued in this state.
8 The coverage must include major medical treatment but may exclude
9 experimental procedures. In this subsection, "major medical
10 treatment" means a medical, surgical, or diagnostic procedure for
11 illness or injury. The coverage may include managed care or
12 preventive care and must be comparable to the basic health coverage
13 provided under Chapter 1551, Insurance Code. The board of trustees
14 of the Teacher Retirement System of Texas shall adopt rules to
15 determine whether a school district's group health coverage is
16 comparable to the basic health coverage specified by this
17 subsection. The rules must provide for consideration of the
18 following factors concerning the district's coverage in
19 determining whether the district's coverage is comparable to the
20 basic health coverage specified by this subsection:

21 (1) the deductible amount for service provided inside
22 and outside of the network;

23 (2) the coinsurance percentages for service provided
24 inside and outside of the network;

25 (3) the maximum amount of coinsurance payments a
26 covered person is required to pay;

27 (4) the amount of the copayment for an office visit;

(5) the schedule of benefits and the scope of coverage;

(6) the lifetime maximum benefit amount; and

(7) verification that the coverage is issued by a provider licensed to do business in this state by the Texas Department of Insurance or is provided by a risk pool authorized under Chapter 172, Local Government Code, or that a district is capable of covering the assumed liabilities in the case of coverage provided through district self-insurance.

(c) The cost of the coverage provided under the program described by Subsection (a) shall be paid by the state, the district, and the employees in the manner provided by Subchapter F, Chapter 1579 [~~Article 3.50-7~~], Insurance Code. The cost of coverage provided under a plan adopted under Subsection (b) shall be shared by the employees and the district using the contributions by the state described by Subchapter F, Chapter 1579 [~~Section 9, Article 3.50-7~~], Insurance Code, or Subchapter D [~~by Article 3.50-8, Insurance Code~~].

(i) Notwithstanding any other provision of this section, a district participating in the uniform group coverage program established under Chapter 1579 [~~Article 3.50-7~~], Insurance Code, may not make group health coverage available to its employees under this section after the date on which the program of coverages provided under Chapter 1579 [~~Article 3.50-7~~], Insurance Code, is implemented.

(j) This section does not preclude a district that is participating in the uniform group coverage program established

1 under Chapter 1579 [~~Article 3.50-7~~], Insurance Code, from entering
2 into contracts to provide optional insurance coverages for the
3 employees of the district.

4 SECTION 18.02. Chapter 22, Education Code, is amended by
5 adding Subchapter D to read as follows:

6 SUBCHAPTER D. COMPENSATION SUPPLEMENTATION

7 Sec. 22.101. DEFINITIONS. In this subchapter:

8 (1) "Cafeteria plan" means a plan as defined and
9 authorized by Section 125, Internal Revenue Code of 1986.

10 (2) "Employee" means an active, contributing member of
11 the Teacher Retirement System of Texas who:

12 (A) is employed by a district, other educational
13 district whose employees are members of the Teacher Retirement
14 System of Texas, participating charter school, or regional
15 education service center;

16 (B) is not a retiree eligible for coverage under
17 the program established under Chapter 1575, Insurance Code;

18 (C) is not eligible for coverage by a group
19 insurance program under Chapter 1551 or 1601, Insurance Code; and

20 (D) is not an individual performing personal
21 services for a district, other educational district that is a
22 member of the Teacher Retirement System of Texas, participating
23 charter school, or regional education service center as an
24 independent contractor.

25 (3) "Participating charter school" means an
26 open-enrollment charter school established under Subchapter D,
27 Chapter 12, that participates in the program established under

1 Chapter 1579, Insurance Code.

2 (4) "Regional education service center" means a
3 regional education service center established under Chapter 8.

4 Sec. 22.102. AUTHORITY TO ADOPT RULES; OTHER AUTHORITY.

5 (a) The agency may adopt rules to implement this subchapter.

6 (b) The agency may enter into interagency contracts with any
7 other agency of this state for the purpose of assistance in
8 implementing this subchapter.

9 Sec. 22.103. ELIGIBILITY; WAITING PERIOD. A person is not
10 eligible for a monthly distribution under this subchapter before
11 the 91st day after the first day the person becomes an employee.

12 Sec. 22.104. DISTRIBUTION BY AGENCY. Subject to the
13 availability of funds, each month the agency shall deliver to each
14 district, including a district that is ineligible for state aid
15 under Chapter 42, each other educational district that is a member
16 of the Teacher Retirement System of Texas, each participating
17 charter school, and each regional education service center state
18 funds in an amount, as determined by the agency, equal to the
19 product of the number of eligible employees employed by the
20 district, school, or service center multiplied by the amount
21 specified in the General Appropriations Act for purposes of this
22 subchapter and divided by 12. The agency shall distribute funding
23 to only one entity for employees who are employed by more than one
24 entity listed in this section.

25 Sec. 22.105. FUNDS HELD IN TRUST. All funds received by a
26 district, other educational district, participating charter
27 school, or regional education service center under this subchapter

1 are held in trust for the benefit of the employees on whose behalf
2 the district, school, or service center received the funds.

3 Sec. 22.106. RECOVERY OF DISTRIBUTIONS. The agency is
4 entitled to recover from a district, other educational district,
5 participating charter school, or regional education service center
6 any amount distributed under this subchapter to which the district,
7 school, or service center was not entitled.

8 Sec. 22.107. DETERMINATION BY AGENCY FINAL. A
9 determination by the agency under this subchapter is final and may
10 not be appealed.

11 Sec. 22.108. DISTRIBUTION BY SCHOOL. Each month, each
12 district, other educational district that is a member of the
13 Teacher Retirement System of Texas, participating charter school,
14 and regional education service center must distribute to its
15 eligible employees the funding received under this subchapter. To
16 receive the monthly distribution, an individual must meet the
17 definition of an employee under Section 22.101 for that month.

18 Sec. 22.109. USE OF SUPPLEMENTAL COMPENSATION. An employee
19 may use a monthly distribution received under this subchapter for
20 any employee benefit, including depositing the amount of the
21 distribution into a cafeteria plan, if the employee is enrolled in a
22 cafeteria plan, or using the amount of the distribution for health
23 care premiums through a premium conversion plan. The employee may
24 take the amount of the distribution as supplemental compensation.

25 Sec. 22.110. SUPPLEMENTAL COMPENSATION. An amount
26 distributed to an employee under this subchapter must be in
27 addition to the rate of compensation that:

1 (1) the district, other educational district,
2 participating charter school, or regional education service center
3 paid the employee in the preceding school year; or

4 (2) the district, school, or service center would have
5 paid the employee in the preceding school year if the employee had
6 been employed by the district, school, or service center in the same
7 capacity in the preceding school year.

8 SECTION 18.03. Section 822.201(c), Government Code, is
9 amended to read as follows:

10 (c) Excluded from salary and wages are:

11 (1) expense payments;

12 (2) allowances;

13 (3) payments for unused vacation or sick leave;

14 (4) maintenance or other nonmonetary compensation;

15 (5) fringe benefits;

16 (6) deferred compensation other than as provided by

17 Subsection (b)(3);

18 (7) compensation that is not made pursuant to a valid
19 employment agreement;

20 (8) payments received by an employee in a school year
21 that exceed \$5,000 for teaching a driver education and traffic
22 safety course that is conducted outside regular classroom hours;

23 (9) the benefit replacement pay a person earns as a
24 result of a payment made under Subchapter B or C, Chapter 661;

25 (10) any amount [~~contributions to a health~~
26 ~~reimbursement arrangement account~~] received by an employee under
27 Subchapter D, Chapter 22, Education Code, former Article 3.50-8,

1 Insurance Code, former Chapter 1580, Insurance Code, or Rider 9,
2 page III-39, Chapter 1330, Acts of the 78th Legislature, Regular
3 Session, 2003 (the General Appropriations Act); and

4 (11) any compensation not described by Subsection (b).

5 SECTION 18.04. Section 1579.253(b), Insurance Code, is
6 amended to read as follows:

7 (b) The employee may pay the employee's contribution under
8 this subsection from the amount distributed to the employee under
9 Subchapter D, Chapter 22, Education Code [~~1580~~].

10 SECTION 18.05. Section 1581.702, Insurance Code, is amended
11 to read as follows:

12 Sec. 1581.702. ADDITIONAL SUPPORT. The state shall provide
13 additional support for a school district to which this section
14 applies in an amount computed by multiplying the total amount of
15 supplemental compensation received by district employees under
16 Subchapter D, Chapter 22, Education Code, [~~1580~~] by 0.062.

17 SECTION 18.06. The following laws are repealed:

18 (1) Chapter 1580, Insurance Code;

19 (2) Section 57, Chapter 201, Acts of the 78th
20 Legislature, Regular Session, 2003;

21 (3) Chapter 313, Acts of the 78th Legislature, Regular
22 Session, 2003; and

23 (4) Section 1.01, Chapter 366, Acts of the 78th
24 Legislature, Regular Session, 2003.

25 SECTION 18.07. The functions and duties of the Teacher
26 Retirement System of Texas with respect to the compensation
27 supplementation program established under Chapter 1580, Insurance

1 Code, and other applicable law, and any appropriation relating
2 to that program are transferred to the Texas Education Agency.
3 A reference in law to the Teacher Retirement System of Texas
4 with respect to the compensation supplementation program means
5 the Texas Education Agency.

6 SECTION 18.08. This article takes effect September 1,
7 2005.

8 ARTICLE 19. RETIREMENT SYSTEM CONTRIBUTIONS FOR CERTAIN MEMBERS
9 OF THE TEACHER RETIREMENT SYSTEM OF TEXAS

10 SECTION 19.01. Subchapter E, Chapter 825, Government Code,
11 is amended by adding Section 825.4041 to read as follows:

12 Sec. 825.4041. EMPLOYER PAYMENTS. (a) For purposes of
13 this section, a new member is a person first employed on or
14 after September 1, 2005, including a former member who withdrew
15 retirement contributions under Section 822.003 and is reemployed
16 on or after September 1, 2005.

17 (b) During each fiscal year, an employer shall pay an
18 amount equal to the state contribution rate, as established by
19 the General Appropriations Act for the fiscal year, applied to
20 the aggregate compensation of new members of the retirement
21 system, as described by Subsection (a), during their first 90
22 days of employment.

23 (c) On a monthly basis an employer shall:

24 (1) report to the retirement system, in a form
25 prescribed by the system, a certification of the total amount of
26 salary paid during the first 90 days of employment of a new
27 member and the total amount of employer payments due under this

1 section for the payroll periods; and

2 (2) retain information, as determined by the
3 retirement system, sufficient to allow administration of this
4 section, including information for each employee showing the
5 applicable salary as well as aggregate compensation for the
6 first 90 days of employment for new employees.

7 (d) A person who was hired before September 1, 2005, and
8 was subject to a 90-day waiting period for membership in the
9 retirement system becomes eligible to participate in the
10 retirement system as a member starting September 1, 2005. For
11 the purpose of this section, the member shall be treated as a
12 new member for the remainder of the waiting period.

13 (e) The employer must remit the amount required under this
14 section to the retirement system at the same time the employer
15 remits the member's contribution. In computing the amount
16 required to be remitted, the employer shall include compensation
17 paid to an employee for the entire pay period that contains the
18 90th calendar day of new employment.

19 (f) At the end of each school year, the retirement system
20 shall certify to the commissioner of education and to the state
21 auditor:

22 (1) the name of each employer that has failed to
23 remit, within the period required by Section 825.408, all
24 payments required under this section for the school year; and

25 (2) the amounts of the unpaid required payments.

26 (g) If the commissioner of education or the state auditor
27 receives a certification under Subsection (f), the commissioner

1 or the state auditor shall direct the comptroller to withhold
2 the amount certified, plus interest computed at the rate and in
3 the manner provided by Section 825.408, from the first state
4 money payable to the employer. The amount withheld shall be
5 deposited to the credit of the appropriate accounts of the
6 retirement system.

7 (h) The board of trustees shall take this section into
8 consideration in adopting the biennial estimate of the amount
9 necessary to pay the state's contributions to the retirement
10 system.

Article

11 SECTION 19.02. This ~~Act~~ takes September 1, 2005.

12 ARTICLE 20. EFFECTIVE DATE

13 SECTION 20.01. Except as otherwise provided by this Act,
14 this Act takes effect immediately if it receives a vote of two-
15 thirds of all the members elected to each house, as provided by
16 Section 39, Article III, Texas Constitution. If this Act does
17 not receive the vote necessary for immediate effect, except as
18 otherwise provided by this Act, this Act takes effect on the
19 91st day after the last day of the legislative session.

Senate Bill 1863
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

ARTICLE 1. AUTHORITY OF LEGISLATURE TO TAKE CERTAIN ACTIONS WITH RESPECT TO APPROPRIATED FUNDS.

SECTION 1.01. Authorizes the legislature to determine the amount of each appropriation and establishes that amounts required by statute may be reduced or eliminated to achieve a balanced budget.

SECTION 1.02. Provides that the article expires September 1, 2007.

ARTICLE 2. REGISTRATION FEE FOR CERTAIN LOBBYISTS.

SECTION 2.01. Amends Section 305.005(c), Government Code, to increase the registration and registration renewal fee imposed on certain lobbyists from \$300 to \$1,000.

SECTION 2.02. Provides that the article takes effect December 1, 2005.

ARTICLE 3. FEES FOR CERTAIN INSPECTIONS CONDUCTED BY THE COMMISSION ON JAIL STANDARDS.

SECTION 3.01. Adds Section 511.0091(c-1) and amends Section 511.0091(d), Government Code, relating to reinspection of a municipal or county jail.

HOUSE VERSION

No equivalent provision.

No equivalent provision.

No equivalent provision.

ARTICLE 1. REGISTRATION FEE FOR CERTAIN LOBBYISTS.

SECTION 1.01. Same as Senate version, except increases the fee from \$300 to \$500. (A3, amended by A4)

SECTION 1.02. Same as Senate version.

ARTICLE 2. FEES FOR CERTAIN INSPECTIONS CONDUCTED BY THE COMMISSION ON JAIL STANDARDS.

SECTION 2.01. Same as Senate version.

CONFERENCE

Same as House version.

Same as House version.

Same as House version.

ARTICLE 1. REGISTRATION FEE FOR CERTAIN LOBBYISTS.

SECTION 1.01. Same as House version.

SECTION 1.02. Same as House version.

No equivalent provision.

No equivalent provision.

Senate Bill 1863
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

HOUSE VERSION

CONFERENCE

SECTION 3.02. Effective date.

SECTION 2.02. Same as Senate version.

No equivalent provision.

ARTICLE 4. CERTAIN AUDITS OF STATE AGENCY EXPENDITURES

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SECTION 4.01. Adds Chapter 2115, Subtitle C, Title 10, Government Code, Recovery Of Certain State Agency Overpayments.

SECTION 3.01. Same as Senate version.

SECTION 2.01. Same as Senate version.

SECTION 4.02. Requires the comptroller of public accounts to adopt rules under the chapter.

SECTION 3.02. Same as Senate version.

SECTION 2.02. Same as Senate version.

ARTICLE 5. FISCAL MATTERS PERTAINING TO REGULATION OF OIL-RELATED AND GAS-RELATED ACTIVITIES

No equivalent provision.

Same as House version.

SECTION 5.01. Adds Section 40.152(c), Natural Resources Code. Authorizes the legislature to appropriate certain funds to the General Land Office for erosion response projects and for a coastal management program in an amount that exceeds the amount of interest accruing to the funds.

No equivalent provision.

Same as House version.

SECTION 5.02. Amends Section 85.2021, Natural Resources Code, Drilling Permit Fee. Requires an applicant for certain drilling permits to submit to the commission a nonrefundable fee. Specifies the amount of the fee, based on the depth of the well, and requires the commission to deposit specified amounts from the fees

No equivalent provision.

Same as House version.

Senate Bill 1863
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

HOUSE VERSION

CONFERENCE

collected to the credit of the oil-field cleanup fund or to the credit of the general revenue fund to be used only for the administration of this state's oil and gas conservation laws. Requires an applicant to submit an additional nonrefundable fee when the applicant requests the commission to make certain reviews or to expedite an application and requires the commission to deposit the entire amount of the fee in the oil-field cleanup fund

SECTION 5.03. Adds Section 85.2022, Natural Resources Code, Inactive Well Fee. (a) Requires that, if two-thirds or more of the wells of an operator with five or more wells have been inactive for three years or more, the operator submit to the commission a nonrefundable inactive well fee of \$100 for each well that has been inactive for three years or more.

(b) Requires that the inactive well fee be paid annually at the time an operator's organization report is due. Provides that an organization report may not be approved until any inactive well fee due under this section has been paid.

(c) Requires that fees collected under this section be deposited to the credit of the oil-field cleanup fund.

SECTION 5.04. Amends Section 91.1013, Natural Resources Code, Application Fees. Requires an applicant for a fluid injection well permit to submit to the commission a nonrefundable fee with each application. Specifies the amount of the fee and requires the commission to deposit specified amounts of the fees

No equivalent provision.

Same as House version.

No equivalent provision.

Same as House version.

Senate Bill 1863
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

HOUSE VERSION

CONFERENCE

collected to the credit of the oil-field cleanup fund or to the credit of the general revenue fund to be used only for the administration of this state's oil and gas conservation laws, with certain exceptions. Specifies the amount of the fee required with each application for certain permits to discharge to surface water and requires the commission to deposit specified amounts of the fees collected to the credit of the oil-field cleanup fund or to the credit of the general revenue fund to be used only for the administration of this state's oil and gas conservation laws, with certain exceptions.

SECTION 5.05. Adds Section 91.111(b-1) and amends Section 91.111(c), Natural Resources Code. Requires the commission to deposit any fees collected under specified sections of the Water Code during a state fiscal year to the credit of the oil-field cleanup fund after a total of \$2.9 million of fees collected under those sections have been deposited to the credit of the general revenue fund for the administration of this state's oil and gas conservation laws during that state fiscal year. Makes a conforming change.

SECTION 5.06. Adds Section 91.142(i) and (j), Natural Resources Code. Requires the commission to suspend the organization report of an entity if the entity does not pay certain required fees to the commission within five business days after the due date. Requires that the suspension remains in effect until the entity pays the required fee and a penalty in an amount equal to the fee.

No equivalent provision.

Same as House version.

No equivalent provision.

Same as House version.

Senate Bill 1863
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

HOUSE VERSION

CONFERENCE

Requires that all fees and penalties collected under this section be deposited in the oil-field cleanup fund.

SECTION 5.07. Amends Section 91.605(e), Natural Resources Code. Requires that the fees collected under this section be deposited to the credit of the general revenue fund to be used only for the administration of oil and gas conservation laws, with exceptions.

SECTION 5.08. Amends Section 27.0321, Water Code, Application Fee. Requires an applicant for an oil and gas waste disposal well permit to submit with each application to the railroad commission a nonrefundable fee of \$300. Requires the railroad commission to deposit specified amounts to the credit of the oil-field cleanup fund and to the credit of the general revenue fund to be used only for the administration of this state's oil and gas conservation laws, with exceptions.

SECTION 5.09. Provides that the article takes effect September 1, 2005.

ARTICLE 6. WAIVER OF AND SUPPLEMENTAL HEALTH COVERAGE FOR STATE EMPLOYEES.

SECTION 6.01. Amends Section 1551.104(a), Insurance Code, Automatic Coverage.

SECTION 6.02. Adds Section 1551.1045, Insurance Code,

No equivalent provision.

No equivalent provision.

No equivalent provision.

ARTICLE 9. WAIVER OF AND SUPPLEMENTAL HEALTH COVERAGE FOR STATE EMPLOYEES.

SECTION 9.01. Same as Senate version.

SECTION 9.02(a). Substantially the same as Senate

Same as House version.

Same as House version.

Same as House version.

ARTICLE 4. WAIVER OF AND SUPPLEMENTAL HEALTH COVERAGE FOR STATE EMPLOYEES.

SECTION 4.01. Same as Senate version.

SECTION 4.02. Same as Senate version.

Senate Bill 1863
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

HOUSE VERSION

CONFERENCE

Waiver. (a) Authorizes an employee or annuitant to waive in writing any coverage provided under this chapter, subject to Subsection (b).

(b) Requires that, to waive coverage, a full-time employee must demonstrate that the employee is covered by another health plan that provides coverage equivalent to the basic plan.

No equivalent provision.

SECTION 6.03. Adds Section 1551.222, Insurance Code, as follows:

No equivalent provision.

version.

(b) Substantially the same as Senate version, except also authorizes a full-time employee to waive coverage if the employee demonstrates eligibility for benefits under the TRICARE Military Health system.

(c) Requires that an annuitant, to waive coverage under the basic coverage plan for the purpose of eligibility for an incentive payment, must demonstrate that the annuitant is covered by another health benefit plan that provides substantially equivalent coverage, or is eligible for benefits under the TRICARE Military Health System..

SECTION 9.03. Adds Sections 1551.221 and 1551.222, Insurance Code, as follows:

Sec. 1551.221. Optional Supplemental Health Coverage For Individuals Eligible Under Tricare Military Health System. (a) Requires the board of trustees of the Employees Retirement System of Texas to offer, as an optional coverage under the group benefits program, a supplemental health coverage program. (b) Authorizes an employee or annuitant, under the supplemental health coverage program, who is eligible to participate in the group benefits program and who is also eligible for benefits under the TRICARE Military Health System to elect to receive primary coverage

Same as Senate version.

Same as Senate version.

SECTION 4.03. Same as House version.

Sec. 1551.221. Same as House version.

Senate Bill 1863
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

HOUSE VERSION

CONFERENCE

under the TRICARE Military Health System. Provides that an employee or annuitant participating in the supplemental health coverage program must waive basic coverage through the group benefits program, but receives supplemental health coverage under this section. (c) Authorizes the cost of supplemental health coverage provided under this section to be paid in the same manner as the cost of other optional coverage is paid under Subchapter G. (d) Requires the board of trustees to contract to purchase the supplemental health coverage in accordance with Sections 1551.213-1551.216. (e) Authorizes the board of trustees to adopt rules to implement this section.

Sec. 1551.222. Incentive Payments. (a) Authorizes the board of trustees to allow an incentive payment to an employee who elects to waive coverage (b) Sets the amount of the incentive payment and establishes that it may be used by the employee only to pay for other group coverage plans provided under the group benefits program. (c) Requires the board of trustees to inform employees that they may make an election if eligible and receive any authorized incentive payment.

SECTION 6.04. Adds Section 1551.324, Insurance Code, Reduction In Contribution For Certain Active Employees; Incentive Payments. (a) Establishes that the state contribution for an employee's coverage may be reduced to reflect the reduced cost of coverage for an employee who

Sec. 1551.222. Substantially the same as Senate version, except clarifies that the provision applies to annuitants and makes conforming changes.

SECTION 9.04. Substantially the same as Senate version, except clarifies that the provision applies to annuitants and makes conforming changes.

Sec. 1551.222. Same as House version.

SECTION 4.04. Same as House version.

Senate Bill 1863
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

HOUSE VERSION

CONFERENCE

elects to waive basic coverage. (b) Authorizes the state to contribute, instead of the full state contribution for an employee who makes an election, an amount for the incentive payment authorized by Section 1551.222.

No equivalent provision.

No equivalent provision.

No equivalent provision.

No equivalent provision.

No equivalent provision.

No equivalent provision.

No equivalent provision.

No equivalent provision.

ARTICLE 5. EXTENDING STATE REIMBURSEMENT PROGRAM: PETROLEUM STORAGE TANKS

SECTION 5.01. Amends Section 26.351(f), Water Code. Requires a person performing corrective action under provisions relating to above ground and underground storage tanks to submit a site closure request to the executive director no later than September 1, 2007, for sites that require either a corrective action plan or groundwater monitoring, have met all other deadlines under this section, and have submitted annual progress reports that demonstrate progress toward meeting closure requirements, if the release was reported to the commission on or before December 22, 1998.

SECTION 5.02. Amends Section 26.355(b), Water Code. Provides that an owner or operator of an underground or aboveground storage tank from which a regulated substance is released is liable to the state unless the site at which the release occurred has been admitted into the petroleum storage tank state-lead program under Section 26.3573(r-1). Makes conforming changes.

SECTION 5.04. Amends Section 26.3573(d), (r), and (s),

Senate Bill 1863
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

HOUSE VERSION

CONFERENCE

Water Code, and adds Subsection (r-1) to read as follows:
(d) Removes a provision that established a maximum amount that the commission could use from the petroleum storage tank remediation account to pay necessary expenses associated with the administration of the petroleum storage tank remediation account and the groundwater protection cleanup program. Makes a conforming change. (r) Makes a conforming change. (r-1) Provides that the "state-lead program" means the petroleum storage tank state-lead program administered by the commission. Requires the executive director to grant an extension for corrective action reimbursement to a person who is an eligible owner or operator under Section 26.3571. Authorizes the petroleum storage tank remediation account to be used to reimburse an eligible owner or operator for corrective action performed under an extension before August 31, 2007. Authorizes an eligible owner or operator who is granted an extension under this subsection to apply to the commission in writing, not later than July 1, 2007, using a form provided by the commission to have the site subject to corrective action placed in the state-lead program. Requires that the eligible owner or operator agree in the application to allow site access to state personnel and state contractors as a condition of placement in the state-lead program under this subsection. Requires the executive director, on receiving the application for placement in the state-lead program under this subsection, to place the site in the state-lead program until the corrective action is completed to the satisfaction of the commission. Provides that an eligible owner or operator of a site that is placed in

Senate Bill 1863
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

HOUSE VERSION

CONFERENCE

No equivalent provision.

No equivalent provision.

the state-lead program under this subsection is not liable to the commission for any costs related to the corrective action. (s) Provides that the petroleum storage tank remediation account may not be used to reimburse any person for corrective action contained in a reimbursement claim filed with the commission after March 1, 2008, rather than 2006.

SECTION 5.05. Amends Section 26.3574(b), Water Code. Revises the amounts and time periods that determine the fee imposed on the delivery of a petroleum product on withdrawal from bulk of that product to be as follows: (1) \$12.50 for each delivery into a cargo tank having a capacity of less than 2,500 gallons for the state fiscal year beginning September 1, 2001, and the state fiscal year beginning September 1, 2002 and \$10.00 for each delivery into a cargo tank having a capacity of less than 2,500 gallons for the state fiscal year beginning September 1, 2003, through the state fiscal year ending August 31, 2007; (2) \$25.00 for each delivery into a cargo tank having a capacity of 2,500 gallons or more but less than 5,000 gallons for the state fiscal year beginning September 1, 2001, and the state fiscal year beginning September 1, 2002, and \$20.00 for each delivery into a cargo tank having a capacity of 2,500 gallons or more but less than 5,000 gallons for the state fiscal year beginning September 1, 2003, through the state fiscal year ending August 31, 2007; (3) \$37.50 for each delivery into a cargo tank having a capacity of 5,000 gallons or more but less than 8,000 gallons for the state fiscal year beginning September 1,

Senate Bill 1863
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

HOUSE VERSION

CONFERENCE

2001, and the state fiscal year beginning September 1, 2002 and \$30.00 for each delivery into a cargo tank having a capacity of 5,000 gallons or more but less than 8,000 gallons for the state fiscal year beginning September 1, 2003, through the state fiscal year ending August 31, 2007; (4) \$50.00 for each delivery into a cargo tank having a capacity of 8,000 gallons or more but less than 10,000 gallons for the state fiscal year beginning September 1, 2001, and the state fiscal year beginning September 1, 2002 and \$40.00 for each delivery into a cargo tank having a capacity of 8,000 gallons or more but less than 10,000 gallons for the state fiscal year beginning September 1, 2003, through the state fiscal year ending August 31, 2007; and (5) a \$25.00 fee for each increment of 5,000 gallons or any part thereof delivered into a cargo tank having a capacity of 10,000 gallons or more for the state fiscal year beginning September 1, 2001, and the state fiscal year beginning September 1, 2002 and \$20.00 for each increment of 5,000 gallons or any part thereof delivered into a cargo tank having a capacity of 10,000 gallons or more for the state fiscal year beginning September 1, 2003, through the state fiscal year ending August 31, 2007.

Amends Section 26.361, Water Code, Expiration Of Reimbursement Program. Provides that the reimbursement program established under this subchapter expires September 1, 2008, rather than 2006. Prohibits the commission, on or after that date, from using money from the petroleum storage tank remediation account to

Senate Bill 1863
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

HOUSE VERSION

CONFERENCE

No equivalent provision.

No equivalent provision.

reimburse an eligible owner or operator for any expenses of corrective action or to pay the claim of a person who has contracted with an eligible owner or operator to perform corrective action.

SECTION 5.06. Amends Section 26.361, Water Code, Expiration Of Reimbursement Program. Provides that the reimbursement program established under this subchapter expires September 1, 2008, rather than 2006. Prohibits the commission, on or after September 1, 2008 2006, from using money from the petroleum storage tank remediation account to reimburse an eligible owner or operator for any expenses of corrective action or to pay the claim of a person who has contracted with an eligible owner or operator to perform corrective action.

No equivalent provision.

No equivalent provision.

SECTION 5.07. Provides that this article takes effect September 1, 2005.

No equivalent provision.

No equivalent provision.

ARTICLE 6. DRUG PURCHASING FOR STATE AGENCIES

No equivalent provision.

No equivalent provision.

SECTION 6.01. Adds Section 531.080, Subchapter B, Chapter 531, Government Code, as follows:

No equivalent provision.

No equivalent provision.

(a)-(d) Authorizes agreements with other states for the joint bulk purchasing of prescription drugs to be used in the Medicaid program, the state child health plan, or another program under the authority of the Health and Human

Senate Bill 1863
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

HOUSE VERSION

CONFERENCE

No equivalent provision.

No equivalent provision.

Services Commission (HHSC). Establishes related feasibility, cost-effectiveness, agreement approval, procedural, and other requirements.

SECTION 6.02. Requires the Health and Human Services Commission, not later than January 15, 2006, to determine the feasibility and cost-effectiveness of entering into an agreement under Section 531.080, Government Code, as added by this article. Requires the commission to take action to enter into an agreement that takes effect March 1, 2006 if the commission determines that such action is feasible and cost-effective.

No equivalent provision.

No equivalent provision.

SECTION 7.03. Requires that, if a state agency determines that a waiver or authorization from a federal agency is necessary for implementation of a provision of this article, the agency affected by the provision must request the waiver or authorization, and the agency is authorized to delay implementing that provision until the waiver or authorization is granted.

No equivalent provision.

No equivalent provision.

ARTICLE 7. CONTINUATION OF QUALITY ASSURANCE FEES

No equivalent provision.

No equivalent provision.

SECTION 7.01. Repeals Section 252.209, Health and Safety Code.

No equivalent provision.

No equivalent provision.

ARTICLE 8. TEXAS MOBILITY FUND

Senate Bill 1863
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

HOUSE VERSION

CONFERENCE

No equivalent provision.

No equivalent provision.

SECTION 8.01. Adds Section 201.9471, Subchapter M, Chapter 201, Transportation Code, Temporary Disposition Of Money Allocated To Fund. Requires the comptroller in fiscal year 2006, to the extent that Sections 521.058, 521.313, 521.3466, 521.427, 522.029, 524.051, and 724.046 of the code allocate money to the Texas mobility fund, to deposit that money instead to the credit of the general revenue fund. Requires the same, except for Section 521.058 money, in fiscal year 2007.

No equivalent provision.

No equivalent provision.

SECTION 8.02. Provides that this article takes effect September 1, 2005.

No equivalent provision.

No equivalent provision.

**ARTICLE 9. TELECOMMUNICATIONS
INFRASTRUCTURE FUND**

No equivalent provision.

No equivalent provision.

SECTION 9.01. Adds Section 57.048(f)-(i), Utilities Code, as follows: (f) Allows a certificated telecommunications utility (CTU) to recover from its customers an assessment imposed on the CTU under the TIF subchapter after the total amount deposited to the credit of the TIF, excluding interest and loan repayments, equals \$1.5 billion. Allows a CTU to recover only that amount. Allows the utility to recover the assessment through a monthly billing process. (g) Requires the comptroller to publish in the Texas Register the date on which the total amount deposited to the credit of the fund, excluding interest and loan repayments, equals \$1.5 billion. (h) Requires a CTU that wants to recover the assessment, not later than February 15 of each

Senate Bill 1863
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

HOUSE VERSION

CONFERENCE

No equivalent provision.

No equivalent provision.

year, to file with the PUC an affidavit or affirmation containing specified data. (i) Requires the PUC to maintain the confidentiality of the information it receives under Section 57.048 that is claimed to be confidential for competitive purposes. Exempts the confidential information from disclosure under the open records law.

SECTION 9.02. Amends Section 57.0485, Utilities Code, to redirect money collected by the comptroller under Section 57.048 from the TIF public schools account (half of collections, under current law) and the qualifying entities account (the remainder, under current law) to the general revenue fund.

No equivalent provision.

No equivalent provision.

SECTION 9.03. Amends Section 57.051, Utilities Code, SUNSET PROVISION. Provides that the Telecommunications Infrastructure Fund, rather than the Board, is subject to the Texas Sunset Act and, this subchapter expires September 1, 2011 unless continued in existence as provided by that chapter.

No equivalent provision.

No equivalent provision.

SECTION 9.04. Repeals Sections 57.043 and 57.048(c) and (d), Utilities Code.

No equivalent provision.

No equivalent provision.

SECTION 9.05. Requires that if, on the day before the effective date of this article, the assessment prescribed by Section 57.048, Utilities Code, is imposed at a rate of less than 1.25 percent, the comptroller on the effective date of PART C shall reset the rate to 1.25 percent.

Senate Bill 1863
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

HOUSE VERSION

CONFERENCE

No equivalent provision.

No equivalent provision.

SECTION 9.06. Effective date for this article.

No equivalent provision.

No equivalent provision.

**ARTICLE 10. COLLECTION OF CERTAIN COSTS,
FEES, AND FINES IN CRIMINAL CASES**

No equivalent provision.

No equivalent provision.

SECTION 10.1. Adds Article 103.0033, Chapter 103,
Code of Criminal Procedure as follows:

No equivalent provision.

No equivalent provision.

Art. 103.0033. Collection Improvement Program.
(a) Establishes that in this article: "Office" means the Office of Court Administration of the Texas Judicial System. "Program" means the program to improve the collection of court costs, fees, and fines imposed in criminal cases, as developed and implemented under this article.

(b) Provides that this article applies only to: a county with a population of 50,000 or greater; and a municipality with a population of 100,000 or greater.

(c) Requires each county and municipality, unless granted a waiver under Subsection (h), to develop and implement a program that complies with the prioritized implementation schedule under Subsection (h). Requires that a county program include district, county, and justice courts.

(d) Requires that the program consist of: (1) a component that conforms with a model developed by the office and designed to improve in-house collections through application of best practices; and (2) a component designed to improve collection of balances more than 60 days past due, which may be implemented by entering into

Senate Bill 1863
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

HOUSE VERSION

CONFERENCE

a contract with a private attorney or public or private vendor in accordance with Article 103.0031.

(e) Requires the office, not later than June 1 of each year, to identify those counties and municipalities that have not implemented a program and are able to implement a program before April 1 of the following year.

(f) Requires the comptroller, in cooperation with the office, to develop a methodology for determining the collection rate of counties and municipalities described by Subsection (e) before implementation of a program. Requires the comptroller to determine the rate for each county and municipality not later than the first anniversary of the county's or municipality's adoption of a program.

(g) Requires the office to: make available on the office's Internet website requirements for a program and assist counties and municipalities in implementing a program by providing training and consultation, except that the office is prohibited from providing employees for implementation of a program.

(h) Authorizes the office, in consultation with the comptroller, to: use case dispositions, population, revenue data, or other appropriate measures to develop a prioritized implementation schedule for programs and determine whether it is not cost-effective to implement a program in a county or municipality and grant a waiver to the county or municipality.

(i) Requires each county and municipality to at least annually submit to the office and the comptroller a written report that includes updated information regarding the program, as determined by the office in cooperation with

Senate Bill 1863
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

HOUSE VERSION

CONFERENCE

the comptroller. Requires the report to be in a form approved by the office in cooperation with the comptroller.
(j) Requires the comptroller to periodically audit counties and municipalities to verify information reported under Subsection (i) and confirm that the county or municipality is conforming with requirements relating to the program. Requires the comptroller to consult with the office in determining how frequently to conduct audits under this section.

No equivalent provision.

No equivalent provision.

SECTION 10.2. Adds Section 133.058(e), Local Government Code. Prohibits a municipality or county from retaining a service fee if, during an audit under Section 133.059 of this code or Article 103.0033(j), Code of Criminal Procedure, the comptroller determines that the municipality or county is not in compliance with Article 103.0033, Code of Criminal Procedure. Authorizes the municipality or county to continue to retain a service fee under this section on receipt of a written confirmation from the comptroller that the municipality or county is in compliance with Article 103.0033, Code of Criminal Procedure.

No equivalent provision.

No equivalent provision.

SECTION 10.3. Amends Section 133.103(b) and (c) and adds Section 133.103(c-1), Local Government Code, as follows: (c-1) Requires the treasurer to send 100 percent of the fees collected under this section to the comptroller if, during an audit under Section 133.059 of this code or Article 103.0033(j), Code of Criminal Procedure, the

Senate Bill 1863
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

HOUSE VERSION

CONFERENCE

comptroller determines that the municipality or county is not in compliance with Article 103.0033, Code of Criminal Procedure. Requires the municipality or county to continue to dispose of fees as otherwise provided by this section on receipt of a written confirmation from the comptroller that the municipality or county is in compliance with Article 103.0033, Code of Criminal Procedure. Makes a conforming change.

No equivalent provision.

No equivalent provision.

SECTION 10.4 (a) Requires the Office of Court Administration of the Texas Judicial System, notwithstanding Subsection (e), Article 103.0033, Code of Criminal Procedure, as added by this Act, not later than September 1, 2005, to identify those counties and municipalities that are able to implement a collection improvement program under Article 103.0033, Code of Criminal Procedure, as amended by this Act, before April 1, 2006. Requires the Office of Court Administration of the Texas Judicial System, beginning June 1, 2006, to comply with Subsection (e), Article 103.0033, Code of Criminal Procedure, as added by this Act. (b) Requires the Office of Court Administration of the Texas Judicial System, not later than September 1, 2005, to make available on the office's Internet website requirements for a program under Article 103.0033, Code of Criminal Procedure, as amended by this Act, in accordance with Subsection (g) of that article.

No equivalent provision.

No equivalent provision.

ARTICLE 11. INTEREST ON CERTAIN TAX

Senate Bill 1863
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

HOUSE VERSION

CONFERENCE

REFUNDS

No equivalent provision.

No equivalent provision.

SECTION 11.01. Amends Section 111.064(a), (c), and (f), Tax Code, and adds Section 111.064 (c-1), Tax Code, as follows: (a) Provides that, except as otherwise provided by this section, for a refund under this chapter interest is at the rate that is the lesser of the annual rate of interest earned on deposits in the state treasury during December of the previous calendar year, as determined by the comptroller, or the rate set in Section 111.060, and accrues on the amount found to be erroneously paid for a period. (c) Provides that, for a refund claimed before September 1, 2005, and granted for a report period due on or after January 1, 2000, the rate of interest is the rate set in Section 111.060. (c-1) Provides that a refund, without regard to the date claimed, for a report period due before January 1, 2000, does not accrue interest. (f) Makes a conforming change.

No equivalent provision.

No equivalent provision.

SECTION 11.02. Effective date for the article.

No equivalent provision.

No equivalent provision.

ARTICLE 12. PUBLIC SCHOOL FACILITIES

No equivalent provision.

No equivalent provision.

SECTION 12.01. Amends Section 46.033, Education Code, Eligible Bonds. Provides that bonds, including bonds issued under Section 45.006, are eligible to be paid with state and local funds under this subchapter if the district made payments on the bonds during the 2004-2005, rather than the 2002-2003, school year or taxes levied to

Senate Bill 1863
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

HOUSE VERSION

CONFERENCE

No equivalent provision.

No equivalent provision.

pay the principal of and interest on the bonds were included in the district's audited debt service collections for that school year.

SECTION 12.02. Amends Section 46.034(c), Education Code. Provides that, if the amount required to pay the principal of and interest on eligible bonds in a school year is less than the amount of payments made by the district on the bonds during the 2004-2005, rather than the 2002-2003 school year or the district's audited debt service collections for that school year, the district may not receive aid in excess of the amount that, when added to the district's local revenue for the school year, equals the amount required to pay the principal of and interest on the bonds.

No equivalent provision.

No equivalent provision.

ARTICLE 13. COMPENSATION FOR CERTAIN STATE EMPLOYEES WHO RETURN TO STATE EMPLOYMENT

No equivalent provision.

No equivalent provision.

SECTION 13.01. Amends Section 659.042, Government Code, Exclusions. Provides that a state employee who retired from state employment on or after June 1, 2005, and who receives an annuity based wholly or partly on service as a state officer or state employee in a public retirement system that was credited to the state employee is not entitled to longevity pay under this subchapter.

No equivalent provision.

No equivalent provision.

SECTION 13.02. Amends Subsection (a), Section 659.043, Government Code. Provides that a state employee

Senate Bill 1863
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

HOUSE VERSION

CONFERENCE

is entitled to longevity pay when the employee has accrued at least two, rather than three, years of lifetime service credit.

No equivalent provision.

No equivalent provision.

SECTION 13.03. Reenacts and Amends Section 659.044, Government Code, as amended by Section 32, Chapter 1158, Acts of the 77th Legislature, Regular Session, 2001, and Section 104, Chapter 1158, Acts of the 77th Legislature, Regular Session, 2001 as follows: (a) Provides that the monthly amount of longevity pay is \$20 for every two, rather than three, years of lifetime service credit. (b) Establishes the years of service credit at which the longevity amount increases. (c) Establishes the month in which the longevity amount increases. (f) Provides that a state employee who retired from state employment before June 1, 2005, and who returned to state employment before September 1, 2005, is entitled to receive longevity pay. Provides that the monthly amount of longevity pay the employee is entitled to receive equals the amount of longevity pay the employee was entitled to receive immediately before September 1, 2005. Provides that a state employee who retired from state employment before June 1, 2005, and who returns to state employment on or after September 1, 2005, is not entitled to receive longevity pay. Makes conforming changes.

No equivalent provision.

No equivalent provision.

SECTION 13.04. Amends Section 659.126, Government Code, Loss Of Eligibility To Receive Benefit Replacement Pay as follows: (a)-(b) Provides that an eligible state

Senate Bill 1863
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

HOUSE VERSION

CONFERENCE

employee or state-paid judge who leaves state employment or state office after August 31, 1995, for at least 30 consecutive days, rather than 12 consecutive months, on returning to state employment or on assuming a state office, is ineligible to receive benefit replacement pay. (c) Provides that, for purposes of this section, a state employee is not considered to have left state employment while the state employee is on an unpaid leave of absence as provided by Section 661.909 or during a period of time the employee is not working for the state because the employee's employment with the state customarily does not include that period of time, such as a teacher whose employment does not invariably include the summer months. (d) Provides that an eligible state employee who retired from state employment on or after June 1, 2005, and who receives an annuity based wholly or partly on service as a state officer or state employee in a public retirement system, as defined by Section 802.001, that was credited to the state employee is ineligible to receive benefit replacement pay.

SECTION 13.05. Adds Section 661.152(1), Government Code. Provides that for purposes of computing vacation leave under Subsection (d) for a state employee who retired from state employment on or after June 1, 2005, and who receives an annuity based wholly or partly on service as a state officer or state employee in a public retirement system that was credited to the state employee, years of total state employment includes only the length of state employment after the date the state employee retired.

No equivalent provision.

No equivalent provision.

Senate Bill 1863
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

No equivalent provision.

No equivalent provision.

HOUSE VERSION

No equivalent provision.

No equivalent provision.

CONFERENCE

SECTION 13.06. Amends Sections 659.305(a), (b), (c), and (g), Government Code, as follows:

(a) Establishes that the amount of a full-time state employee's hazardous duty pay for a particular month is the lesser of: (1) \$10, rather than \$7, for each 12-month period of lifetime service credit accrued by the employee; or (2) \$300, rather than \$210.

(b) Establishes that the amount of certain full-time state employee's hazardous duty pay for a particular month is the sum of: (1) \$10, rather than \$7 for each 12-month period of state service credit the employee finished accruing before May 29, 1987; and (2) \$10, rather than \$7, for each 12-month period of lifetime service credit that the employee accrued after the date, which must be before May 29, 1987, on which the employee finished accruing the last 12-month period of state service credit.

(c) Provides that the amount determined under Subsection (b)(2) may not exceed \$300, rather than \$210.

(g) Provides that a state employee may not receive more than \$10, rather than \$7 for each 12-month period of lifetime service credit, regardless of the number of positions the employee holds or the number of hours the employee works each week.

SECTION 13.07. (a) Saving provision. (b) Provides that a state employee who leaves state employment before the effective date of this article is ineligible to receive benefit replacement pay unless the employee returns to state employment before September 30, 2005.

Senate Bill 1863
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

HOUSE VERSION

CONFERENCE

No equivalent provision.

No equivalent provision.

SECTION 13.08. Provides that this article takes effect September 1, 2005.

No equivalent provision.

No equivalent provision.

ARTICLE 14. SYSTEM BENEFIT FUND

No equivalent provision.

No equivalent provision.

SECTION 14.01. Amends Section 39.903(h), Utilities Code, relating to electric utilities and the system benefit fund, to provide that if the supportive fee is set at the maximum 65 cents per megawatt-hour, or if the PUC determines that appropriations are insufficient to fund the 10 percent lower level of the 10-20 percent prescribed electric utility discount for eligible customers, the PUC may reduce the discount to less than 10 percent.

No equivalent provision.

No equivalent provision.

ARTICLE 15. FUNDING OF THE COASTAL PROTECTION FUND AND THE USE OF MONEY IN THE FUND

No equivalent provision.

No equivalent provision.

SECTION 15.01. Adds Section 40.152(c), Natural Resources Code, to allow the legislature to appropriate to the General Land Office, for implementation of the coastal management program and for erosion response projects, money from the coastal protection fund in an amount that exceeds the amount of interest accruing to the fund annually. Provides that this subsection expires September 1, 2007.

No equivalent provision.

No equivalent provision.

SECTION 15.02. Amends Sections 40.155(a)-(d), Natural Resources Code, to reduce the coastal protection fee on

Senate Bill 1863
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

HOUSE VERSION

CONFERENCE

No equivalent provision.

No equivalent provision.

No equivalent provision.

No equivalent provision.

crude oil offloaded or uploaded at a marine terminal from two cents to 1-1/3 cents per barrel, and to reduce from \$25 million to \$20 million the level of unencumbered balance in the coastal protection fund which, when reached, halts fee payment and collection. Lowers from \$14 million to \$10 million the level of unencumbered balance which, if the fund falls to that amount, triggers resumption of fee payment and collection. Makes related conforming changes with respect to fee administration.

ARTICLE 16. REIMBURSEMENT OF EXCESSIVE OR UNFAIRLY DISCRIMINATORY RATES CHARGED BY CERTAIN INSURERS

SECTION 16.01. Amends Article 5.144, Insurance Code, relating to ordered refunds by an insurer when the insurance commissioner determines that the insurer has charged a rate for personal automobile insurance or residential property insurance that is excessive or unfairly discriminatory. Requires payment of interest on the refund amount. Among other provisions, provides in Subsection (b-1) that the rate of such interest is the prime rate plus six percent, using the prime rate for the calendar year in which the order is issued, and that the interest accrues beginning on the date on which the insurer first charged the excessive or unfairly discriminatory rate, as determined by the commissioner, and continues to accrue until the refund is paid.

Senate Bill 1863
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

HOUSE VERSION

CONFERENCE

No equivalent provision.

No equivalent provision.

**ARTICLE 17. CERTAIN PROVISIONS RELATING TO
BENEFITS FOR RETIRED SCHOOL EMPLOYEES**

No equivalent provision.

No equivalent provision.

SECTION 17.01. Amends Section 825.404(a), Government Code. (a) Requires that, during each fiscal year, the state contribute to the Teacher Retirement System an amount equal to at least six and not more than 10, rather than not more than eight, percent of the aggregate annual compensation of all members of the retirement system during that fiscal year.

No equivalent provision.

No equivalent provision.

SECTION 17.02. Amends Section 1575.203(a), Insurance Code. Requires each active employee, each state fiscal year, to contribute, as a condition of employment, to the fund administered by the Texas Public School Employees Group Benefits Program an amount equal to 0.65, rather than 0.5 percent of the employee's salary.

No equivalent provision.

No equivalent provision.

SECTION 17.03. Effective date for this article.

No equivalent provision.

No equivalent provision.

**ARTICLE 18. COMPENSATION SUPPLEMENTATION
FOR CERTAIN SCHOOL EMPLOYEES**

No equivalent provision.

No equivalent provision.

SECTION 18.01. Amends Sections 22.004(a), (b), (c), (i), and (j), Education Code. Makes conforming changes.

No equivalent provision.

No equivalent provision.

SECTION 18.02. Adds Subchapter D Chapter 22, Education Code, Compensation Supplementation as follows:

Senate Bill 1863
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

HOUSE VERSION

CONFERENCE

No equivalent provision.

No equivalent provision.

Sec. 22.101. DEFINITIONS. Defines "Cafeteria plan", "Employee", "Participating charter school", "Regional education service center".

No equivalent provision.

No equivalent provision.

Sec. 22.102. Authority to adopt rules; other authority. Authorizes TEA (the agency) to adopt rules to implement this subchapter. Authorizes the agency to enter into interagency contracts with any other agency of this state for the purpose of assistance in implementing this subchapter.

No equivalent provision.

No equivalent provision.

Sec. 22.103. Eligibility; Waiting Period. Provides that a person is not eligible for a monthly distribution under this subchapter before the 91st day after the first day the person becomes an employee.

No equivalent provision.

No equivalent provision.

Sec. 22.104. Distribution By Agency. Requires the agency, subject to the availability of funds, to deliver each month to each district, including a district that is ineligible for state aid under Chapter 42, each other educational district that is a member of the Teacher Retirement System of Texas, each participating charter school, and each regional education service center state funds in an amount, as determined by the agency, equal to the product of the number of eligible employees employed by the district, school, or service center multiplied by the amount specified in the General Appropriations Act for purposes of this subchapter and divided by 12. Requires the agency to distribute funding to only one entity for employees who are employed by more than one entity listed in this section.

Senate Bill 1863
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

HOUSE VERSION

CONFERENCE

No equivalent provision.

No equivalent provision.

Sec. 22.105. Funds Held In Trust. Establishes that all funds received by a district, other educational district, participating charter school, or regional education service center under this subchapter are held in trust for the benefit of the employees on whose behalf the district, school, or service center received the funds.

No equivalent provision.

No equivalent provision.

Sec. 22.106. Recovery Of Distributions. Provides that the agency is entitled to recover from a district, other educational district, participating charter school, or regional education service center any amount distributed under this subchapter to which the district, school, or service center was not entitled.

No equivalent provision.

No equivalent provision.

Sec. 22.107. Determination By Agency Final. Establishes that a determination by the agency under this subchapter is final and may not be appealed.

No equivalent provision.

No equivalent provision.

Sec. 22.108. Distribution By School. Requires each district, other educational district that is a member of the Teacher Retirement System of Texas, participating charter school, and regional education service center to distribute each month to its eligible employees the funding received under this subchapter. To receive the monthly distribution, an individual must meet the definition of an employee under Section 22.101 for that month.

No equivalent provision.

No equivalent provision.

Sec. 22.109. Use Of Supplemental Compensation. Authorizes an employee to use a monthly distribution

Senate Bill 1863
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

HOUSE VERSION

CONFERENCE

received under this subchapter for any employee benefit, including depositing the amount of the distribution into a cafeteria plan, if the employee is enrolled in a cafeteria plan, or using the amount of the distribution for health care premiums through a premium conversion plan. Authorizes the employee to take the amount of the distribution as supplemental compensation.

No equivalent provision.

No equivalent provision.

Sec. 22.110. Supplemental Compensation. Requires that an amount distributed to an employee under this subchapter be in addition to the rate of compensation that the district, other educational district, participating charter school, or regional education service center paid the employee in the preceding school year; or the district, school, or service center would have paid the employee in the preceding school year if the employee had been employed by the district, school, or service center in the same capacity in the preceding school year.

No equivalent provision.

No equivalent provision.

SECTION 18.03. Amends Section 822.201(c), Government Code. Excludes certain compensation from reportable salary and wages under TRS.

No equivalent provision.

No equivalent provision.

SECTION 18.04. Amends Section 1579.253(b), Insurance Code. Authorizes an employee to pay the employee's health insurance contribution from the amount distributed to the employee under this article.

No equivalent provision.

No equivalent provision.

SECTION 18.05. Amends Section 1581.702, Insurance

Senate Bill 1863
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

HOUSE VERSION

CONFERENCE

No equivalent provision.

No equivalent provision.

Code, Additional Support. Requires the state to provide additional support for a school district to which this section applies in an amount computed by multiplying the total amount of supplemental compensation received by district employees under this article.

SECTION 18.06. Repeals the following laws: Chapter 1580, Insurance Code; Section 57, Chapter 201, Acts of the 78th Legislature, Regular Session, 2003; Chapter 313, Acts of the 78th Legislature, Regular Session, 2003; and Section 1.01, Chapter 366, Acts of the 78th Legislature, Regular Session, 2003.

No equivalent provision.

No equivalent provision.

SECTION 18.07. Transfers the functions and duties of the Teacher Retirement System of Texas with respect to the compensation supplementation program established under Chapter 1580, Insurance Code, and other applicable law, and any appropriation relating to that program are to the Texas Education Agency. Provides that a reference in law to the Teacher Retirement System of Texas with respect to the compensation supplementation program means the Texas Education Agency.

No equivalent provision.

No equivalent provision.

SECTION 18.08. Provides that this article takes effect September 1, 2005.

No equivalent provision.

No equivalent provision.

**ARTICLE 19. RETIREMENT SYSTEM
CONTRIBUTIONS FOR CERTAIN MEMBERS OF THE
TEACHER RETIREMENT SYSTEM OF TEXAS**

Senate Bill 1863
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

No equivalent provision.

HOUSE VERSION

No equivalent provision.

CONFERENCE

SECTION 19.01. Adds Section 825.4041, Subchapter E, Chapter 825, Government Code, Employer Payments. (a) Provides that, for purposes of this section, a new member is a person first employed on or after September 1, 2005, including a former member who withdrew retirement contributions under Section 822.003 and is reemployed on or after September 1, 2005.

(b) Requires an employer, during each fiscal year, to pay an amount equal to the state contribution rate, as established by the General Appropriations Act for the fiscal year, applied to the aggregate compensation of new members of the retirement system, as described by Subsection (a), during their first 90 days of employment.

(c) Requires an employer, on a monthly basis to: (1) report to the retirement system, in a form prescribed by the system, a certification of the total amount of salary paid during the first 90 days of employment of a new member and the total amount of employer payments due under this section for the payroll periods; and (2) retain information, as determined by the retirement system, sufficient to allow administration of this section, including information for each employee showing the applicable salary as well as aggregate compensation for the first 90 days of employment for new employees.

(d) Provides that a person who was hired before September 1, 2005, and was subject to a 90-day waiting period for membership in the retirement system becomes eligible to participate in the retirement system as a member starting September 1, 2005. Requires that for the purpose of this section, the member be treated as a new member for the

Senate Bill 1863
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

HOUSE VERSION

CONFERENCE

remainder of the waiting period.

(e) Requires the employer to remit the amount required under this section to the retirement system at the same time the employer remits the member's contribution. In computing the amount required to be remitted, the employer shall include compensation paid to an employee for the entire pay period that contains the 90th calendar day of new employment.

(f) Requires the retirement system, at the end of each school year, to certify to the commissioner of education and to the state auditor: (1) the name of each employer that has failed to remit, within the period required by Section 825.408, all payments required under this section for the school year; and (2) the amounts of the unpaid required payments.

(g) Provides that, if the commissioner of education or the state auditor receives a certification under Subsection (f), the commissioner or the state auditor must direct the comptroller to withhold the amount certified, plus interest computed at the rate and in the manner provided by Section 825.408, from the first state money payable to the employer. Requires that the amount withheld be deposited to the credit of the appropriate accounts of the retirement system.

(h) Requires the board of trustees to take this section into consideration in adopting the biennial estimate of the amount necessary to pay the state's contributions to the retirement system.

SECTION 19.02. Provides that this article takes ^{effect} September

No equivalent provision.

No equivalent provision.

Senate Bill 1863
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION	HOUSE VERSION	CONFERENCE
		1, 2005.
ARTICLE 7. COLLECTION OF MOTOR FUELS TAXES	ARTICLE 4. COLLECTION OF MOTOR FUELS TAXES	No equivalent provision.
SECTION 7.01. Amends Section 162.001(20) and (43), Tax Code, Definitions.	SECTION 4.01. Same as Senate version.	No equivalent provision.
SECTION 7.02. Amends Section 162.004(b), Tax Code, Motor Fuel Transportation: Required Documents.	SECTION 4.02. Same as Senate version.	No equivalent provision.
SECTION 7.03. Amends Section 162.016(a), Tax Code, Importation and Exportation of Motor Fuel.	SECTION 4.03. Same as Senate version.	No equivalent provision.
SECTION 7.04. Amends Section 162.113(d), Tax Code, Remittance of Tax to Supplier or Permissive Supplier; Allowances.	SECTION 4.04. Same as Senate version.	No equivalent provision.
SECTION 7.05. Adds Section 162.115(m-1), Tax Code, relating to Records.	SECTION 4.05. Same as Senate version.	No equivalent provision.
SECTION 7.06. Amends Section 162.116(a) and (d), Tax Code, Information Required on Supplier's and Permissive Supplier's Return; Credits and Allowances.	SECTION 4.06. Same as Senate version.	No equivalent provision.
SECTION 7.07. Amends Section 162.118, Tax Code, Information Required On Distributor's Return.	SECTION 4.07. Same as Senate version.	No equivalent provision.
SECTION 7.08. Amends Section 162.123, Tax Code,	SECTION 4.08. Same as Senate version.	No equivalent provision.

Senate Bill 1863
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

HOUSE VERSION

CONFERENCE

Information Required On Blender's Return.

SECTION 7.09. Adds Section 162.127(g), Tax Code, Claims for Refunds.

SECTION 4.09. Same as Senate version.

No equivalent provision.

SECTION 7.10. Amends Section 162.206(c) and adds 162.206(c-1) and (h-1), Tax Code, Statement for Purchase of Dyed Diesel Fuel.

SECTION 4.10. Same as Senate version.

No equivalent provision.

SECTION 7.11. Amends Section 162.214(d), Tax Code, Remittance Of Tax To Supplier Or Permissive Supplier; Allowances.

SECTION 4.11. Same as Senate version.

No equivalent provision.

SECTION 7.12. Adds Section 162.216(m-1), Tax Code, relating to Records.

SECTION 4.12. Same as Senate version.

No equivalent provision.

SECTION 7.13. Amends Section 162.217(a) and (d), Tax Code, Information Required On Supplier's And Permissive Supplier's Return; Credits And Allowances.

SECTION 4.13. Same as Senate version.

No equivalent provision.

SECTION 7.14. Amends Section 162.219, Tax Code, Information Required On Distributor's Return.

SECTION 4.14. Same as Senate version.

No equivalent provision.

SECTION 7.15. Amends Section 162.224, Tax Code, Information Required On Blender's Return.

SECTION 4.15. Same as Senate version.

No equivalent provision.

SECTION 7.16. Adds Section 162.227(c-1), Tax Code, Refund Or Credit For Certain Taxes Paid. Authorizes a license holder to take a credit on a return for the period in

SECTION 4.16. Substantially the same as Senate version.

No equivalent provision.

Senate Bill 1863
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

which a purchase occurred, and authorizes a person who does not hold a license to file a refund claim with the comptroller, if the license holder or person paid tax on diesel fuel and the diesel fuel is used in this state: as a feedstock or other component in the further manufacturing of tangible personal property for resale not as a motor fuel; or in the original production of oil or gas or to increase the production of oil or gas.

No equivalent provision.

No equivalent provision.

HOUSE VERSION

Adds Section 162.227(c-2), Tax Code. Authorizes a person who does not hold a license under this subchapter to file a refund claim with the comptroller if the person paid tax on kerosene and used or consumed the kerosene in this state in manufacturing or as a component part of a product that is not a motor fuel. (A6)

Adds Section 162.227(d-1), Tax Code. Authorizes a license holder to take a credit on a return for the period in which the purchase occurred, and authorizes a person who does not hold a license to file a refund claim with the comptroller, if the license holder or person paid tax on diesel fuel and the diesel fuel is used in this state by auxiliary power units or power take-off equipment on any motor vehicle. Authorizes the comptroller to approve and adopt the use of the device as a basis for determining the quantity of diesel fuel consumed in those operations for a tax credit or tax refund if the quantity of that diesel fuel can be accurately measured while the motor vehicle is stationary by any metering or other measuring device or

CONFERENCE

Same as Senate version.

Same as Senate version.

Senate Bill 1863
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

HOUSE VERSION

CONFERENCE

method designed to measure the fuel separately from fuel used to propel the motor vehicle. Authorizes the license holder to take the credit and the person who does not hold a license to claim the refund on a percentage of the diesel fuel consumed by each motor vehicle equipped with an auxiliary power unit or power take-off equipment if there is no separate metering device or other approved measuring method. Requires the comptroller to determine the percentage of the credit or refund. Establishes that the climate-control air conditioning or heating system of a motor vehicle that has a primary purpose of providing for the convenience or comfort of the operator or passengers is not a power take-off system; establishes that a credit or refund may not be allowed for the tax paid on any portion of the diesel fuel that is used for that purpose. Establishes that a credit or refund may not be allowed for the diesel fuel tax paid on that portion of the diesel fuel that is used for idling. (A5)

SECTION 7.17. Adds Section 162.229(g), Tax Code, Claims for Refunds.

SECTION 4.17. Same as Senate version.

No equivalent provision.

SECTION 7.18. Amends Section 162.230(d), Tax Code, When Diesel Fuel Tax Refund Or Credit May Be Filed.

SECTION 4.18. Same as Senate version.

No equivalent provision.

SECTION 7.19. Amends Section 162.404(c) and (d), Tax Code, Criminal Offenses: Special Provisions And Exceptions.

SECTION 4.19. Same as Senate version.

No equivalent provision.

Senate Bill 1863
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION	HOUSE VERSION	CONFERENCE
SECTION 7.20. Repeals Section 162.016(h), Tax Code.	SECTION 4.20. Same as Senate version.	No equivalent provision.
SECTION 7.21. Saving provision for Article 7.	SECTION 4.21. Same as Senate version.	No equivalent provision.
SECTION 7.22. Effective date for Article 7.	SECTION 4.22. Same as Senate version.	No equivalent provision.
ARTICLE 8. ELIGIBILITY FOR MEDICAL ASSISTANCE AND CHILDREN'S HEALTH INSURANCE PROGRAMS	ARTICLE 6. ELIGIBILITY FOR MEDICAL ASSISTANCE AND CHILDREN'S HEALTH INSURANCE PROGRAMS	ARTICLE 3. ELIGIBILITY FOR MEDICAL ASSISTANCE AND CHILDREN'S HEALTH INSURANCE PROGRAMS
SECTION 8.01. Authorizes the executive commissioner of the Health and Human Services Commission, during the state fiscal biennium beginning September 1, 2005, to provide for periods of continuous eligibility for Medicaid and the children's health insurance program that are designed to provide savings to the state without imposing unreasonable burdens on persons who are eligible for services.	SECTION 6.01. Amends Section 62.102, Health and Safety Code. Requires the commission to provide that an individual who is eligible for coverage under the child health plan remains eligible for a six-month period, rather than a period not to exceed 12 months. Removes a provision authorizing a period of continuous eligibility to be established at an interval of 12 months of continuous eligibility after September 1, 2005.	SECTION 3.01. Same as House version.
No equivalent provision.	SECTION 6.02. Amends Section 32.0261, Human Resources Code. Makes a conforming change.	SECTION 3.02. Same as House version.
SECTION 8.02. Authorizes the executive commissioner to seek a waiver or authorization if the executive commissioner determines that a waiver or authorization from a federal agency is necessary.	SECTION 6.03. Requires a state agency to request a waiver or authorization if the agency affected by a provision determines that a waiver or authorization is necessary for implementation of the provision. Authorizes the agency to delay implementing the provision until the waiver or authorization is granted.	SECTION 3.03. Same as House version.

Senate Bill 1863
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

HOUSE VERSION

CONFERENCE

No equivalent provision.

ARTICLE 7. MEDICAL ASSISTANCE PROGRAM

Same as House version.

No equivalent provision.

SECTION 7.01. Adds Section 531.0081, Government Code, Office Of Medical Technology. Requires the Health and Human Services Commission to establish the office of medical technology within the commission. Requires the office to explore and evaluate new developments in medical technology and propose implementing the technology in the medical assistance program under Chapter 32, Human Resources Code, if appropriate and cost-effective. Requires that office staff have skills and experience in research regarding health care technology.

Same as Senate version..

No equivalent provision.

SECTION 7.02. Adds Section 531.021(f) -(i), Government Code as follows:

Same as Senate version.

No equivalent provision.

(f) Authorizes the executive commissioner, in adopting rates for medical assistance payments, to adopt reimbursement rates for certain nursing services if those services are determined to provide a cost-effective alternative to hospitalization. Requires a physician to certify that the services are medically appropriate to qualify for reimbursement.

Same as Senate version.

No equivalent provision.

(g) Authorizes the executive commissioner to adopt cost-effective reimbursement rates for group appointments with medical assistance providers for certain diseases and medical conditions specified by rules of the executive commissioner.

Same as Senate version.

Senate Bill 1863
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

HOUSE VERSION

CONFERENCE

No equivalent provision.

(h) Requires the commission to establish a pilot project to streamline and expedite the cost reporting and auditing processes for intermediate care facilities for the mentally retarded that are not operated by the state and for the home and community-based services waiver program. Requires the commission to commence the pilot project in time to capture financial information for the 2005 fiscal year. Requires the commission to ensure that the 2005 fiscal year information is available for use in the 2006 legislative appropriations process for the 80th state legislative session. Authorizes the commission to consider providing in the pilot program incentives for providers to submit independently audited financial information instead of reviewed financials. Requires that the pilot project include the following features: (1) a significantly simplified cost reporting process that is similar to standard financial reporting expectations in banking and that includes both allowable and non-allowable costs; (2) reimbursement regulations that eliminate all minimum spending requirements, to ensure simplicity; (3) rules that require providers to include with all reports submitted a financial review performed by an independent accounting firm licensed under Chapter 901, Occupations Code, in accordance with generally-accepted accounting principles and with commission guidelines; and (4) provisions for filing financial information electronically that are for the first year of the pilot program, optional; and after the first anniversary of the pilot program, mandatory. (A43)

Same as Senate version.

No equivalent provision.

(i) Requires the commission, in developing the pilot

Same as Senate version.

Senate Bill 1863
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

HOUSE VERSION

CONFERENCE

project described by Subsection (h), to revise reimbursement rules as necessary to implement the pilot program and develop the simplified reporting process and system by a collaborative process involving providers of services in intermediate care facilities for the mentally retarded and home and community-based services waiver program services and accounting firms familiar with intermediate care facilities for the mentally retarded and the home and community-based services waiver program. (A43)

No equivalent provision.

SECTION 7.03. Adds Section 531.02175, Government Code, Reimbursement For Online Medical Consultations, as follows:

Same as Senate version.

No equivalent provision.

(a) Defines "physician" .

Same as Senate version.

No equivalent provision.

(b) Authorizes the executive commissioner by rule to require the commission and each health and human services agency that administers a part of the Medicaid program to provide Medicaid reimbursement for a medical consultation that is provided by a physician or other health care professional using the Internet as a cost-effective alternative to an in-person consultation. Authorizes the executive commissioner to require the commission or a health and human services agency to provide the reimbursement described by this subsection only if the Centers for Medicare and Medicaid Services develop an appropriate Current Procedural Terminology code for

Same as Senate version.

Senate Bill 1863
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

HOUSE VERSION

CONFERENCE

medical services provided using the Internet.

No equivalent provision.

(c) Authorizes the executive commissioner to develop and implement a pilot program under which Medicaid reimbursements are paid for medical consultations provided by health care professionals using the Internet. Requires that the program be designed to test whether an Internet consultation is a cost-effective alternative to an in-person consultation. Authorizes the executive commissioner to modify the program as necessary to maximize the potential cost-effectiveness of Internet consultations. Authorizes the executive commissioner to expand the program to additional sites or to implement reimbursements for Internet consultations statewide if the executive commissioner determines from the pilot program that Internet medical consultations are cost-effective.

Same as Senate version.

No equivalent provision.

(d) Establishes that the executive commissioner is not required to implement the pilot program authorized under Subsection (c) as a prerequisite to providing Medicaid reimbursement authorized by Subsection (b) on a statewide basis.

Same as Senate version.

No equivalent provision.

SECTION 7.04. (a) Adds Section 531.083, Government Code, Hospital Emergency Room Use Reduction Initiatives. Requires the commission to develop and implement a comprehensive plan to reduce the use of hospital emergency room services by recipients under the medical assistance program. Authorizes the plan to

Same as Senate version.

Senate Bill 1863
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

HOUSE VERSION

CONFERENCE

include: (1) a pilot program designed to facilitate program participants in accessing an appropriate level of health care, which may include as components: (A) providing program participants access to bilingual health services providers; and (B) giving program participants information on how to access primary care physicians, advanced practice nurses, and local health clinics; (2) a pilot program under which health care providers, other than hospitals, are given financial incentives for treating recipients outside of normal business hours to divert those recipients from hospital emergency rooms; (3) payment of a nominal referral fee to hospital emergency rooms that perform an initial medical evaluation of a recipient and subsequently refer the recipient, if medically stable, to an appropriate level of health care, such as care provided by a primary care physician, advanced practice nurse, or local clinic; (4) a program under which the commission or a managed care organization that enters into a contract with the commission contacts, by telephone or mail, a recipient who accesses a hospital emergency room three times during a six-month period and provides the recipient with information on ways the recipient may secure a medical home to avoid unnecessary treatment at hospital emergency rooms; (5) a health care literacy program under which the commission develops partnerships with other state agencies and private entities to: (A) assist the commission in developing certain educational materials for parents of young children; (B) distribute the materials to those parents; and (C) otherwise teach those parents about the health care needs of their children and ways to address those needs;

Senate Bill 1863
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

HOUSE VERSION

CONFERENCE

and (6) other initiatives developed and implemented in other states that have shown success in reducing the incidence of unnecessary treatment in hospital emergency rooms.

No equivalent provision.

(b) Authorizes the Health and Human Services Commission to develop the health care literacy component of the comprehensive plan to reduce the use of hospital emergency room services so that the health care literacy component operates like the Johnson & Johnson/UCLA Health Care Institute, which is designed to teach parents to better address the health care needs of their children.

Same as Senate version.

No equivalent provision.

SECTION 7.05. Adds Section 531.084, Government Code, Performance Bonus Pilot Program as follows:

Same as Senate version.

No equivalent provision.

(a) Requires the commission to develop a proposal for providing higher reimbursement rates to primary care case management providers under the Medicaid program who treat program recipients with chronic health conditions in accordance with evidence-based, nationally accepted best practices and standards of care.

Same as Senate version.

No equivalent provision.

(b) Requires the commission to define the parameters of the proposed program, including: (1) the types of chronic health conditions the program would target; (2) the best practices and standards of care that must be followed for a provider to obtain a higher reimbursement rate under the proposed program; and (3) the types of providers to whom

Same as Senate version.

Senate Bill 1863
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

HOUSE VERSION

CONFERENCE

the higher reimbursement rate would be offered under the proposed program.

No equivalent provision.

(c) Requires the Health and Human Services Commission, not later than December 1, 2006, to report to the standing committees of the senate and the house of representatives having primary jurisdiction over welfare programs regarding the proposed program under this section. Requires that the report include: (1) the anticipated effect of higher reimbursement rates on quality of care provided and the health outcomes; (2) a determination of whether the program would be cost-effective; and (3) a recommendation regarding implementation of the program.

Same as Senate version.

No equivalent provision.

(d) Provides that this section expires September 1, 2007.

Same as Senate version.

No equivalent provision.

SECTION 7.06. Amends Section 562.1085(a) and adds 562.1085(f), Occupations Code. Establishes that, when a pharmacist who practices in or serves as a consultant for a state health care facility returns certain unused drugs to a pharmacy, the required tamper-evident packaging is not required to be the manufacturer's original packaging unless that packaging is required by federal law. Makes a conforming change.

Same as Senate version.

No equivalent provision.

SECTION 7.07. Medicaid coverage for health insurance premiums and long-term care needs. (a) Requires the Health and Human Services Commission to explore the commission's authority under federal law to offer, and the

Same as Senate version.

Senate Bill 1863
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

HOUSE VERSION

CONFERENCE

cost and feasibility of offering: (1) a stipend paid by the Medicaid program to a person to cover the cost of a private health insurance plan as an alternative to providing traditional Medicaid services for the person; (2) premium payment assistance through the Medicaid program for long-term care insurance for a person with a health condition that increases the likelihood that the person will need long-term care in the future; and (3) a long-term care partnership between the Medicaid program and a person under which the person pays the premiums for long-term care insurance and the Medicaid program provides continued coverage after benefits under that insurance are exhausted.

No equivalent provision.

(b) Requires the Health and Human Services Commission to consider whether other state incentives that could encourage persons to purchase health insurance plans or long-term care insurance are feasible. Authorizes the incentives to include offering tax credits to businesses to increase the availability of affordable insurance.

Same as Senate version.

No equivalent provision.

(c) Requires the Health and Human Services Commission, if it determines that any of the options are feasible and cost-effective, to make efforts to implement those options to the extent they are authorized by federal law. Requires the commission to request any necessary waivers after determining that an option is feasible and cost-effective. Requires the commission to report to the 80th Legislature and specify any changes that are needed if the commission

Same as Senate version.

Senate Bill 1863
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

HOUSE VERSION

CONFERENCE

determines that legislative changes are necessary to implement an option.

No equivalent provision.

SECTION 7.08. Requires an agency affected by any provision of this article to request a waiver or authorization if the agency determines that a waiver or authorization is necessary for implementation of the provision. Authorizes the agency to delay implementing that provision until the waiver or authorization is granted.

Same as Senate version.

No equivalent provision.

ARTICLE 8. QUALITY ASSURANCE FEES

Same as Senate version.

No equivalent provision.

SECTION 8.01. Adds Subchapter P, Chapter 242, Health and Safety Code, as follows:

Same as Senate version.

No equivalent provision.

Sec. 242.801. Definitions. Defines "Commission", "Department", "Executive commissioner", and "Gross receipts".

Same as Senate version.

No equivalent provision.

Sec. 242.802. Applicability. Establishes that this subchapter does not apply to: (1) a state-owned veterans' nursing facility; or (2) an entity that provides on a single campus a continuum of specified services and that: (A) operates under a continuing care retirement community certificate of authority issued by the Texas Department of Insurance; or (B) over a 12-month period, provides a greater number of combined patient days of service to independent living and assisted living residents, not including services provided to persons in licensed

Same as Senate version.

Senate Bill 1863
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

HOUSE VERSION

CONFERENCE

nursing facility beds, than the patient days of service provided to nursing facility residents.

No equivalent provision.

Sec. 242.803. Computing quality assurance fee. (a) Imposes a quality assurance fee on each institution subject to this subchapter for which a license fee must be paid. Establishes that the quality assurance fee payment: (1) is an amount established under Subsection (b) multiplied by the number of patient days; (2) is payable monthly; and (3) is in addition to other fees imposed under this chapter.

Same as Senate version.

No equivalent provision.

(b) Requires the commission to establish a quality assurance fee for each patient day so that the fee does not produce annual revenues greater than six percent of the state's total annual gross receipts. Provides that the fee is subject to adjustment as necessary. Establishes that the amount of the quality assurance fee may vary according to the number of patient days provided by an institution as necessary to obtain a waiver under federal regulations.

Same as Senate version.

No equivalent provision.

(c) Requires that the amount of the quality assurance fee be determined using patient days and gross receipts: (1) reported to the commission or to the department at the direction of the commission; and (2) covering a period of at least six months.

Same as Senate version.

No equivalent provision.

(d) Establishes that the quality assurance fee is an allowable cost for reimbursement under the state Medicaid program.

Same as Senate version.

Senate Bill 1863
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

HOUSE VERSION

CONFERENCE

No equivalent provision.

(e) Prohibits a nursing facility from listing the quality assurance fee as a separate charge on a patient's or resident's billing statement or otherwise attempting to charge the fee to a patient or resident.

Same as Senate version.

No equivalent provision.

Sec. 242.804. Patient Days. Requires that, for each calendar day, an institution determine the number of patient days by adding the following: (1) the number of patients occupying an institution bed immediately before midnight of that day plus the number of patients admitted that day less the number of patients discharged that day, except that a patient is included in the count under this subdivision if: (A) the patient is admitted and discharged on the same day; or (B) the patient is discharged that day because of the patient's death; and (2) the number of beds that are on hold that day and that have been placed on hold for a period not to exceed three consecutive calendar days during which a patient is: (A) in the hospital; or (B) on therapeutic home leave.

Same as Senate version.

No equivalent provision.

Sec. 242.805. Reporting And Collection. Requires the commission or the department as directed by the executive commissioner to collect the quality assurance fee. Requires each institution, not later than the 25th day after the last day of a month, to file a report stating the total patient days for the month and pay the quality assurance fee.

Same as Senate version.

No equivalent provision.

Sec. 242.806. Rules; Administrative Penalty. Requires the executive commissioner to adopt certain rules, including

Same as Senate version.

Senate Bill 1863
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

HOUSE VERSION

CONFERENCE

rules related to the imposition and collection of the quality assurance fee. Authorizes the executive commissioner to adopt rules granting exceptions from the quality assurance fee, including an exception for units of service reimbursed through Medicare Part A, if the commission obtains all waivers necessary under federal law. Establishes that an administrative penalty assessed under this subchapter may not exceed one-half of the amount of the outstanding quality assurance fee or \$20,000, whichever is greater.

No equivalent provision.

Sec. 242.807. Nursing Home Quality Assurance Fee Account. Establishes that the nursing home quality assurance fee account is a dedicated account in the general revenue fund and that interest earned on money in the account must be credited to the account. Requires the comptroller to deposit money collected under this subchapter to the credit of the account. Requires that money in the account together with federal matching money be used to support or maintain an increase in Medicaid reimbursement for institutions.

Same as Senate version.

No equivalent provision.

Sec. 242.808. Reimbursement Of Institutions. Authorizes the commission to use money in the nursing home quality assurance fee account, together with any federal money available to match that money, to offset allowable expenses under the state Medicaid program or increase reimbursement rates paid under the Medicaid program to institutions. Requires the commission to devise the formula by which amounts received under this subchapter increase

Same as Senate version.

Senate Bill 1863
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

HOUSE VERSION

CONFERENCE

the reimbursement rates paid under the state Medicaid program.

No equivalent provision.

Sec. 242.809. Invalidity; Federal Funds. Requires that, if any portion of this subchapter is held invalid by court order, or if the commission determines that the provisions of the subchapter will not entitle the state to receive additional federal funds under the Medicaid program, the commission must stop collecting the quality assurance fee and return any money collected within 30 days after the date collection is stopped.

Same as Senate version.

No equivalent provision.

Sec. 242.810. Revision In Case Of Disapproval. Requires the commission to revise state plan amendments and waiver requests as necessary if the Centers for Medicare and Medicaid Services disapproves the quality assurance fee plan established under this subchapter. Requires that the revisions be completed as soon as practicable after the date the commission receives notice of the disapproval.

Same as Senate version.

No equivalent provision.

Sec. 242.811. Authority To Accomplish Purposes Of Subchapter. Authorizes the executive commissioner to adopt a definition, a method of computation, or a rate that differs from those authorized by this subchapter if the difference is necessary to accomplish the purposes of this subchapter.

Same as Senate version.

No equivalent provision.

SECTION 8.02. Adds Sections 531.078 through 531.081, Subchapter B, Chapter 531, Government Code, as follows:

Same as Senate version.

Senate Bill 1863
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

HOUSE VERSION

CONFERENCE

No equivalent provision.

Sec. 531.078. Quality Assurance Fees On Certain Waiver Program Services. Defines "gross receipts". Requires the executive commissioner to establish a quality assurance fee program and impose a quality assurance fee on persons providing services under a home and community services waiver or a community living assistance and support services waiver. Requires the executive commissioner to establish the fee at an amount that will produce annual revenues of not more than six percent of the gross receipts from services provided under the waiver. Requires the executive commissioner to adopt rules governing required reporting and administration of the fee, including penalties. Requires that fees collected be deposited in the waiver program quality assurance fee account.

Same as Senate version.

No equivalent provision.

Sec. 531.079. Waiver Program Quality Assurance Fee Account. Establishes the waiver program quality assurance fee account and exempts the account from provisions relating to the use of dedicated revenue. Requires that interest earned be credited to the account. Establishes that the account consists of fees and interest collected under the subchapter. Authorizes money in the account to be appropriated only to the Department of Aging and Disability Services to increase reimbursement rates paid under the home and community services waiver program or the community living assistance and support services waiver program or to offset allowable expenses under the state Medicaid program. (A10)

Same as Senate version.

Senate Bill 1863
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

HOUSE VERSION

CONFERENCE

No equivalent provision.

Sec. 531.080. Reimbursement Of Waiver Programs. Requires the Department of Aging and Disability Services to use money from the waiver program quality assurance fee account, together with any federal money available to match money from the account, to increase reimbursement rates paid under the home and community services waiver program or the community living assistance and support services waiver program. (A10)

Same as Senate version.

No equivalent provision.

Sec. 531.081. Invalidity; Federal Funds. Requires that, if any of these provisions is held invalid by court order, or if the commission determines that the provisions will not entitle the state to receive additional federal funds under the Medicaid program, the commission must stop collecting the quality assurance fee and return any money collected within 30 days after collection is stopped.

Same as Senate version.

No equivalent provision.

SECTION 8.03. Amends Section 252.202(b), Health and Safety Code. Requires the Health and Human Services Commission or the department to set the quality assurance fee for each day in an amount that will produce annual revenues of not more than six percent of the total annual gross receipts in the state, rather than six percent of a facility's total annual gross receipts. Provides that the fee is subject to a prospective adjustment as necessary. (SECTION 8.04 deleted by A1)

Same as Senate version.

No equivalent provision.

SECTION 8.05. (a) Requires the executive commissioner of the Health and Human Services Commission to establish

Same as Senate version.

Senate Bill 1863
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

HOUSE VERSION

CONFERENCE

the initial quality assurance fee based on available revenue and patient day information. Provides that the initial quality assurance fee established under this section remains in effect until the commission obtains the information necessary to set the fee under provisions of this article. Requires the executive commissioner to adopt rules to implement this article. Requires that, if a state agency determines a waiver or authorization is necessary for implementation of a provision, the agency affected by the provision must request the waiver or authorization. Authorizes the agency to delay implementing that provision until the waiver or authorization is granted.

No equivalent provision.

**ARTICLE 11. POWERS AND DUTIES OF
COMPTROLLER AND PROVISIONS RELATED TO
TAXES COLLECTED BY COMPTROLLER OR LOCAL
ENTITIES**

Same as Senate version.

No equivalent provision.

SECTION 11.01. Adds Section 442.015(h), Government Code. Authorizes the comptroller to manage the assets of the Texas preservation trust fund account in the same manner as the comptroller is authorized to manage the assets of certain permanent funds.

Same as Senate version.

No equivalent provision.

SECTION 11.02. Amends Section 552.025(c), Government Code. Establishes that certain provisions relating to public records do not authorize withholding information that concerns a tax matter and that is issued by a governmental body, provided that the governmental body

Same as Senate version.

Senate Bill 1863
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

HOUSE VERSION

CONFERENCE

removes any information that identifies a taxpayer from the information.

No equivalent provision.

SECTION 11.03. Adds Section 285.063(b-1), Health and Safety Code. Requires a hospital district to submit to the comptroller a description of the boundaries of the district and a map of the district clearly showing the district's boundaries at the same time the district submits the results of an election held under the subchapter.

Same as Senate version.

No equivalent provision.

SECTION 11.04. Adds Section 775.0753(d), Health and Safety Code. Requires an emergency services district to submit to the comptroller a description of the boundaries of the district and a map of the district clearly showing the district's boundaries at the same time the district submits the results of the election held under this subchapter.

Same as Senate version.

No equivalent provision.

SECTION 11.05. Adds Section 776.0753(d), Health and Safety Code. Requires an emergency services district in a county of 125,000 or less to submit to the comptroller a description of the boundaries of the district and a map of the district clearly showing the district's boundaries at the same time the district submits the results of the election held as provided by this subchapter.

Same as Senate version.

No equivalent provision.

SECTION 11.06. Amends Article 1.16(b), Insurance Code. Makes a conforming change.

Same as Senate version.

No equivalent provision.

SECTION 11.07. Amends Section 222.002(b), Insurance

Same as Senate version.

Senate Bill 1863
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

HOUSE VERSION

CONFERENCE

Code. Requires an insurer or health maintenance organization, in determining an insurer's taxable gross premiums or a health maintenance organization's taxable gross revenues, to include an insurance policy or contract covering *risks on individuals or groups* rather than persons.

No equivalent provision.

SECTION 11.08. Amends Section 223.003(a), Insurance Code. Clarifies that an annual tax on title insurance premiums is imposed on all premiums rather than each title insurance company that receives premiums. Makes a conforming change.

Same as Senate version.

No equivalent provision.

SECTION 11.09. Amends Section 252.003, Insurance Code. Adds an event covered under a home warranty insurance policy and an event covered under an inland marine insurance policy to the list of covered events on which an insurer is required to pay maintenance taxes on reported premiums.

Same as Senate version.

No equivalent provision.

SECTION 11.10. Amends Section 271.002(a), Insurance Code. Provides that a title insurance maintenance fee is imposed on all premiums rather than on each insurer with gross premiums.

Same as Senate version.

No equivalent provision.

SECTION 11.11. Amends Section 1502.053, Insurance Code, Exemption From Certain Taxes. Establishes that the issuer of a children's health benefit plan is not subject to the retaliatory tax imposed under Chapter 281 with respect to money received for coverage provided under that plan.

Same as Senate version.

Senate Bill 1863
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

HOUSE VERSION

CONFERENCE

Makes conforming changes.

No equivalent provision.

SECTION 11.12. Adds Section 383.101(d), Local Government Code. Requires a county development district to submit to the comptroller a description of the boundaries of the district and a map of the district clearly showing the district's boundaries at the same time the district submits the results of the election held under this subchapter.

Same as Senate version.

No equivalent provision.

SECTION 11.13. Amends Section 387.012, Local Government Code, Effective Date Of Tax. Requires a county assistance district to submit to the comptroller a description of the boundaries of the district and a map of the district clearly showing the district's boundaries at the same time the district submits the results of the election held under this chapter.

Same as Senate version.

No equivalent provision.

SECTION 11.14. Amends Section 111.009(a), and adds 111.009(e) and (f), Tax Code, as follows: (a) Authorizes a person having a direct interest in a determination to assert legal and factual grounds to challenge an assessment. (e) Authorizes a person filing a petition to assert credits or claim a refund for the same tax type and same period. Requires that the assertion for the credits or the claim for the refund be included in the petition or be filed within the applicable limitations period, except as otherwise provided by this section. Requires the comptroller to adopt procedural rules that ensure that redetermination proceedings are expeditiously finalized and that provide

Same as Senate version.

Senate Bill 1863
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

HOUSE VERSION

CONFERENCE

that all parties receive equal time to prepare and submit their positions before the hearing. (f) Establishes that a credit or refund for the same tax type and same period may be asserted or claimed in the redetermination proceeding for all issues if the credit is asserted or the refund is claimed not later than the second anniversary of the date the petition for redetermination is filed. Establishes that this subsection does not authorize a filing for a separate credit or refund that is not authorized under Section 111.107(b).

No equivalent provision.

SECTION 11.15. Adds Section 111.016(e) and (f), Tax Code as follows: (e) Authorizes the comptroller to assess certain responsible individuals at any time before the first anniversary of the later of: the date the tax liability of the corporation, association, limited liability company, limited partnership, or other legal entity becomes final; or the date the bankruptcy proceeding is closed or dismissed. (f) Establishes that an individual that the comptroller asserts is liable for the payment of tax or other money under this section as a responsible individual is entitled to: reasonable notice from the comptroller that specifies the basis for that assertion and the amount of tax or money for which the comptroller asserts the individual is liable; and contest that assertion in a manner consistent with the remedies available to taxpayers under this title.

Same as Senate version.

No equivalent provision.

SECTION 11.16. Adds Section 111.0515, Subchapter B, Chapter 111, Tax Code, Restricted Or Conditional

Same as Senate version.

Senate Bill 1863
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

HOUSE VERSION

CONFERENCE

Payments Of Taxes, Penalties, And Interest Prohibited. Establishes that, unless the restriction or condition is authorized by this title, a restriction or condition placed on a check in payment of taxes by the maker of the check that purports to limit the amount of taxes owed to an amount less than that stated in the comptroller's records, or a restriction or condition placed on a check in payment of penalties and interest on delinquent taxes by the maker that purports to limit the amount of the penalties and interest to an amount less than the amount of penalties and interest accrued on the delinquent taxes, is void.

No equivalent provision.

SECTION 11.17. Adds Section 111.065, Subchapter B, Chapter 111, Tax Code, Expeditious Assistance For Taxpayers. Requires the comptroller, as expeditiously as possible, to refund or credit any amount of tax overpaid by a person and correct any erroneous assessment. Requires the comptroller to amend any audit or the records of any audit period as expeditiously as possible if necessary to comply with this provision.

Same as Senate version.

No equivalent provision.

SECTION 11.18. Amends Section 111.107, Tax Code. Clarifies that a person may not refile a refund claim for the same transaction or item, tax type, period, and ground or reason that was previously denied by the comptroller *in a refund hearing*. Makes a conforming change.

Same as Senate version.

No equivalent provision.

SECTION 11.19. Amends Section 151.006, Tax Code, "Sale For Resale". Amends the definition of "Sale for

Same as Senate version.

Senate Bill 1863
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

HOUSE VERSION

CONFERENCE

Resale" to establish that a sale of tangible personal property for the sole purpose of the purchaser's leasing or renting it must occur *in the normal course of business*.

No equivalent provision.

SECTION 11.20. Amends Section 151.011(a), Tax Code. Amends the definition of "use" to establish that the exercise of a right or power over tangible personal property that is incidental to the ownership of the property includes tangible personal property other than certain *printing* material rather than *printed* material. Makes conforming changes.

Same as Senate version.

No equivalent provision.

SECTION 11.21. Amends Section 151.3111(b), Tax Code. Establishes that an exemption of certain services from sales, excise and use tax does not apply, through December 31, 2007, to the performance of a service on certain items used in the processing of timber.

Same as Senate version.

No equivalent provision.

SECTION 11.22. Amends Sections 151.3162(d) and (e), Tax Code. Establishes that until a tax exemption takes effect on certain items used in the processing of timber, a person is entitled to *an exemption* rather than *a credit or refund* of a portion of the taxes paid on an item that will be exempted. Establishes a saving provision for this section. Makes conforming changes. (SECTIONS 11.23-11.27 deleted by A1)

Same as Senate version.

No equivalent provision.

SECTION 11.28. Amends Section 152.123(b), Tax Code. Removes a provision that requires a county to retain a

Same as Senate version.

Senate Bill 1863
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

HOUSE VERSION

CONFERENCE

specified percentage of certain motor vehicle taxes during fiscal years 2006 and 2007. (SECTION 11.29 deleted by A1)

No equivalent provision.

SECTION 11.30. Adds Section 171.110(m), Tax Code. Establishes, with certain exceptions, that in computing taxable earned surplus, a corporation is considered to have made an election to use the same methods used in filing its federal income tax return.

Same as Senate version.

No equivalent provision.

SECTION 11.31. Amends Section 171.1121(b), Tax Code. Requires, with certain exceptions, that a corporation use the same accounting methods to apportion taxable earned surplus as the corporation used to compute taxable earned surplus.

Same as Senate version.

No equivalent provision.

SECTION 11.32. Amends Section 171.801(2), Tax Code. Establishes that "Qualified capital investment" means certain tangible personal property, as defined by specified federal statute. Clarifies that the term does not include land.

Same as Senate version.

No equivalent provision.

SECTION 11.33. Amends Section 183.053(b), Tax Code. Increases the maximum amount of security that may be required of certain permittees who are liable for the mixed beverage tax from \$50,000 to the greater of \$100,000 or four times the amount of the permittee's average monthly tax liability. (SECTION 11.34 deleted by A1)

Same as Senate version.

No equivalent provision.

SECTION 11.35. Amends Section 201.102, Tax Code,

Same as Senate version.

Senate Bill 1863
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

HOUSE VERSION

CONFERENCE

Cash Sales. Establishes that, if gas is sold for cash only, payments from a purchaser of gas to a producer for the purpose of reimbursing the producer for taxes due under the Tax Code are not part of the gross cash receipts. (SECTION 11.36 deleted by A1)

No equivalent provision.

SECTION 11.37. Amends Sections 313.021(1) and (2), Tax Code. Establishes that "Qualified investment" has the meaning assigned under a specified federal statute. Brings the owner of a leasehold interest in land within provisions relating to "Qualified property" in a reinvestment zone.

Same as Senate version.

No equivalent provision.

SECTION 11.38. Amends Sections 321.203(b)-(e) and adds 321.203(n), Tax Code. Establishes that a sale of certain services to remodel nonresidential real property is consummated at the location of the job site. Establishes that if the job site includes areas in multiple municipalities, the sale is consummated at: the retailer's place of business in this state where the order is received; or if the order is not received at a place of business of the retailer, the place of business from which the retailer's agent who took the order operates. Makes conforming changes.

Same as Senate version.

No equivalent provision.

SECTION 11.39. Adds Section 321.302(c-1), Tax Code. Establishes that, for the purpose of a required certification from the comptroller to a municipality that a person is obligated for municipal tax and that the full amount of the tax due has been credited to the municipality's account, "full amount of the tax due" means the amount of

Same as Senate version.

Senate Bill 1863
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

HOUSE VERSION

CONFERENCE

	municipal tax to be allocated that can be determined without a comptroller's audit of the person's records.	
No equivalent provision.	SECTION 11.40. Amends Section 321.503, Tax Code. Makes a conforming change.	Same as Senate version.
No equivalent provision.	SECTION 11.41. Amends Section 323.102(c), Tax Code. Establishes that a tax imposed under the County Development District Act takes effect on the first day of the first calendar quarter after the expiration of the first complete calendar quarter occurring after the date on which the comptroller receives a required notice of the.	Same as Senate version.
No equivalent provision.	SECTION 11.42. Amends Section 323.203(b)-(e), and adds 323.203(m), Tax Code. Establishes that a sale of certain services to remodel nonresidential real property is consummated at the location of the job site. Establishes that if the job site includes areas in multiple municipalities, the sale is consummated at: the retailer's place of business in this state where the order is received; or if the order is not received at a place of business of the retailer, the place of business from which the retailer's agent who took the order operates. Makes a conforming change.	Same as Senate version.
No equivalent provision.	SECTION 11.43. Amends Section 323.503, Tax Code. Makes a conforming change.	Same as Senate version.
No equivalent provision.	SECTION 11.44. Amends Section 502.1025(b), Transportation Code. Increases the percentage of certain	Same as Senate version.

Senate Bill 1863
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION	HOUSE VERSION	CONFERENCE
	vehicle registration fees retained by a county tax assessor-collector from 90 to 100 percent in fiscal year 2006 and from 80 to 100 percent in fiscal year 2007.	
No equivalent provision.	SECTION 11.45. Amends the heading to Subchapter A, Chapter 16, Utilities Code, Subchapter a. Assessment on Utility Gross Receipts .	Same as Senate version.
No equivalent provision.	SECTION 11.46. Amends the heading to Section 16.001, Utilities Code, Assessment On Utility Gross Receipts.	Same as Senate version.
No equivalent provision.	SECTION 11.47. Amends Sections 16.001(a) and (b), Utilities Code, relating to assessments on public utilities. Changes the phrase "public utility" to "telecommunications utility, electric utility".	Same as Senate version.
No equivalent provision.	SECTION 11.48. Amends Section 16.002(b), Utilities Code, relating to the payment dates for an assessment on public utilities. Changes the phrase "public utility" to "telecommunications utility, electric utility, retail electric provider, or electric cooperative".	Same as Senate version.
No equivalent provision.	SECTION 11.49. Repeals the following sections of the Tax Code: Section 151.103(d); Section 151.202(c); Section 321.203(l), as added by Chapter 1310, Acts of the 78th Legislature, Regular Session, 2003; and Section 323.203(l). (A1)	Same as Senate version.
No equivalent provision.	SECTION 11.50. Saving provision for changes in law	Same as Senate version.

Senate Bill 1863
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

HOUSE VERSION

CONFERENCE

made by the article to Section 201.102, Tax Code.

No equivalent provision.

SECTION 11.51. Saving provision for changes in law made by the article to Section 111.009, Tax Code.

Same as Senate version.

No equivalent provision.

SECTION 11.52. Establishes that changes in law made by the article to Section 151.006, Tax Code, do not affect any matter that is the subject of litigation pending on the effective date of the article.

Same as Senate version.

No equivalent provision.

SECTION 11.53. Provides that the change in law made to Section 171.109(g), Tax Code, by the article is a clarification of existing law and does not imply that existing law may be construed as inconsistent with the law as amended by this article.

Same as Senate version.

No equivalent provision.

SECTION 11.54. Provides that if a change in law made to Section 16.001 or 16.002, Utilities Code, by this article conflicts with another bill enacted by the 79th Legislature, Regular Session, 2005, that amends Section 16.001 or 16.002, Utilities Code, including H.B. No. 1779, that other bill controls.

Same as Senate version.

No equivalent provision.

SECTION 11.55. Provides that the article takes effect October 1, 2005.

Same as Senate version.

No equivalent provision.

ARTICLE 12. SALE OF CIGARETTES AND TOBACCO PRODUCTS

Same as Senate version.

Senate Bill 1863
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

HOUSE VERSION

CONFERENCE

No equivalent provision.

SECTION 12.01. Adds Section 161.0821, Health and Safety Code, Purchase Of Cigarettes Or Tobacco Products By Persons Younger Than 18 Years Of Age Prohibited. Creates an offense if a person younger than 18 years of age purchases or attempts to purchase cigarettes or tobacco products. Provides an exception if the person is participating in an investigation or compliance inspection on behalf of the comptroller or a local law enforcement agency. Establishes that, if conduct constituting an offense under this section also constitutes an offense under another section of this code or another provision of law, the actor may be prosecuted under either this section or the other section or provision. Establishes that a person attempts to purchase cigarettes or tobacco products if the person commits an act amounting to more than mere preparation that tends, but fails, to effect the purchase. Provides that an offense under this section is a Class C misdemeanor.

Same as Senate version.

No equivalent provision.

SECTION 12.02. (a) Adds Subchapter V, Chapter 161, Health and Safety Code, Internet Or Mail-Order Sales Of Cigarettes And Tobacco Products, as follows:

Same as Senate version.

No equivalent provision.

Sec. 161.651. Definitions. Defines: "Cigarette", "Tobacco product", "common carrier," "consumer," "distributor," "importer," "manufacturer," "permit holder," "retailer," and "wholesaler".

Same as Senate version.

No equivalent provision.

Sec. 161.652. Applicability Of Subchapter To Indian Tribes. Provides that this subchapter does not apply to

Same as Senate version.

Senate Bill 1863
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

HOUSE VERSION

CONFERENCE

cigarette or tobacco product sales by an Indian tribe, as defined by federal law or by members of the Indian tribe, to a consumer in this state if the consumer is a verified adult member of that Indian tribe and the buyer and seller are each located on land over which the tribe exercises governmental power and that is owned or occupied by that tribe.

No equivalent provision.

Sec. 161.653. Certain Deliveries Of Cigarettes And Tobacco Products Prohibited. (a) Prohibits a person engaged in the business of selling cigarettes or tobacco products, including sales over the Internet or through mail-order, from delivering the products to a person in this state except in a face-to-face transaction at the time of purchase. Provides an exception if the products are in a plainly marked container that indicates that there are cigarettes or tobacco products inside and the sale or delivery is made to one of the following persons for purposes other than personal consumption by the recipient: a permit holder, or the permit holder's employees; a manufacturer or importer of tobacco products; an export warehouse proprietor with a federal permit; an operator of a federally designated customs bonded warehouse; an employee of federal, state, or local government acting within the scope of the person's official duties.

Same as Senate version.

No equivalent provision.

(b) Prohibits a person within the jurisdiction of state law from knowingly transporting cigarettes or tobacco products on behalf of another for business purposes for delivery to a

Same as Senate version.

Senate Bill 1863
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

HOUSE VERSION

CONFERENCE

person not described in this provision. Establishes that the provision does not apply to a common carrier or commercial delivery service that in the ordinary course of business does not use bills of lading or other shipping documents to identify the contents of packages transported.
(A13)

No equivalent provision.

(c) Provides that this section does not apply to a common carrier or other delivery service operating within the scope of its business except as specifically provided by Subsection (b).

Same as Senate version.

No equivalent provision.

Sec. 161.654. Permit Holder List. Requires the comptroller to compile and make available on the comptroller's Internet website and by other means a list of all persons who hold a permit under provisions of the Tax Code governing cigarettes and tobacco products. Requires the comptroller to periodically update the list of permit holders.

Same as Senate version.

No equivalent provision.

Sec. 161.655. Violator's List. (a) Requires the comptroller to maintain a list of persons the comptroller determines who have violated, are violating, or offering to violate certain provisions of this article.
(b) Requires the comptroller to provide to the United States Postal Service, each common carrier and commercial delivery service operating in this state, and any other person who delivers cigarettes or tobacco products into or within this state a copy of this subchapter and the list

Same as Senate version.

Senate Bill 1863
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

HOUSE VERSION

CONFERENCE

maintained under Subsection (a). Requires the comptroller to provide updated copies of the list as the comptroller determines is appropriate.

(c) Requires that, before adding a person to the list maintained under Subsection (a), the comptroller provide 10 days' written notice and an opportunity to be heard to that person. Requires that the notice include the text of this subchapter. Authorizes the notice to be made by an electronic communication.

(d) Establishes that the list maintained under Subsection (a) is confidential and not subject to disclosure. Establishes that the comptroller and each person who receives a copy of the list from the comptroller under this section must maintain the list as confidential and may use the list only to comply with this subchapter.

No equivalent provision.

Sec. 161.656. Carrier And Delivery Service Responsibilities. (a) Prohibits a common carrier or commercial delivery service within the jurisdiction of state law that receives a copy of a list maintained under Section 161.655 from making any deliveries in this state on behalf of a person identified in the list with the specific purpose of intentionally assisting in the violation of this subchapter. Provides that a person who is a common carrier or commercial delivery service and who receives a list maintained under Section 161.655 may make deliveries in this state on behalf of a person who is identified in the list if: the person making the delivery knows or believes that the package does not contain cigarettes or tobacco products; or the delivery is made to a person described by

Same as Senate version.

Senate Bill 1863
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

HOUSE VERSION

CONFERENCE

the exception established in Section 161.653(a) above.
(A13)

No equivalent provision.

(b) Provides that a person who delivers cigarettes or tobacco products and receives a copy of a list maintained under Section 161.155 is not required to: inspect a package being delivered to determine whether the package contains cigarettes or tobacco products; determine whether the list is complete, accurate, and up to date; or determine whether any person ordering or requesting a delivery is in compliance with this subchapter. Provides that the person is not subject to any penalty for failing to make a specific delivery on behalf of a person on the list; or establishing and following a policy of not making deliveries in conformity with this article. Establishes that the person is not subject to criminal penalties for a violation of this subchapter unless the person intentionally violates this subchapter for the specific purpose of assisting a person engaged in the business of manufacturing, distributing, or selling cigarettes or tobacco products to violate this subchapter. Authorizes the person to collect an additional fee from the person's customers who order deliveries of cigarettes or tobacco products to recover any costs incurred by the person related to complying with the article. (A13)

Same as Senate version.

No equivalent provision.

(c) Establishes that an employee of a common carrier or commercial delivery service or of any other person making deliveries for a carrier or delivery service is not subject to criminal or civil penalties for violating this subchapter

Same as Senate version.

Senate Bill 1863
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

HOUSE VERSION

CONFERENCE

unless the employee knowingly violates this subchapter for the specific purpose of assisting a person engaged in the business of manufacturing, distributing, or selling cigarettes or tobacco products in violation of this subchapter.

No equivalent provision.

Sec. 161.657. Civil Penalties. (a) Provides that a person who violates this subchapter, with certain exceptions, is subject to a civil penalty for each violation in an amount of at least \$500 and not more than the greater of \$5,000 or five times the value of the cigarettes or tobacco products at issue and equal to any profits, gain, gross receipts, or other benefits received from the violation.

Same as Senate version.

(b) Requires that a person who violates the article reimburse the state and applicable political subdivisions for all unpaid taxes that would otherwise have been imposed on the cigarettes and tobacco products in question, plus interest, and for any other damages incurred by the state or the political subdivision as a result of the violation.

No equivalent provision.

Sec. 161.658. Criminal Penalties. Creates an offense when a person knowingly violates provisions of the article. Establishes that an offense under this subsection is a Class A misdemeanor, except that if it is shown on the trial of the offense that the person has a previous conviction under this subsection, the offense is a state jail felony. Provides an exception.

Same as Senate version.

No equivalent provision.

Sec. 161.659. Costs. (a) Requires the comptroller to deposit 50 percent of the civil penalties recovered under

Same as Senate version.

Senate Bill 1863
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

HOUSE VERSION

CONFERENCE

this article to be appropriated only to enforce the article, make related investigations, or to enforce other state laws relating to contraband cigarettes and tobacco products, the collection of taxes on cigarettes and tobacco products, and the prohibition of cigarette and tobacco product sales to minors. (b) Provides that, in a civil action brought to enforce this subchapter, the state is entitled to recover the costs of investigation, costs of the action, and reasonable attorney's fees, plus interest.

No equivalent provision.

Sec. 161.660. Enforcement. (a) Authorizes the attorney general to bring an action to enforce the subchapter, seek civil penalties and related damages, and equitable relief, or to prevent or restrain actions that violate this subchapter or assist or encourage a violation of this subchapter. (b) Authorizes enforcement officials of a political subdivision of this state, on providing at least 15 days' notice to the attorney general, to bring an action or join an action being brought by the attorney general to seek damages and equitable relief or to prevent or restrain actions that violate this subchapter or assist or encourage a violation of this subchapter. (c) Authorizes a person who holds a federal permit to manufacture or import tobacco products or operate an export warehouse, on providing at least 15 days' notice to the attorney general, to bring an action in or join an action being brought by the attorney general, to prevent or restrain actions that violate this subchapter or assist or encourage a violation of this subchapter. (d) Authorizes the attorney general, on receiving notice of another person's intent to bring an

Same as Senate version.

Senate Bill 1863
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

HOUSE VERSION

CONFERENCE

action under this subchapter, to choose to join in the other person's action or bring an action by this state. Requires the attorney general to inform the person within 15 days of how the attorney general will proceed. (e) Requires the attorney general to make public, by posting on the Internet and other means, a list of all actions taken to enforce this subchapter and a list of all persons found to have violated this subchapter, including the persons' names, addresses, and any other information the attorney general believes may be useful to other jurisdictions enforcing laws prohibiting or restricting cigarette or tobacco product sales for personal consumption in which the seller and buyer do not initiate and complete the entire transaction in each other's physical presence.

No equivalent provision.

(b) Repeals Subchapter R, Chapter 161, Health and Safety Code, as added by Chapter 730, Acts of the 78th Legislature, Regular Session, 2003, effective September 1, 2006.

Same as Senate version.

No equivalent provision.

(c) Requires the comptroller, not later than January 1, 2006, to post the list of persons who hold permits under provisions of the Tax Code governing cigarettes and tobacco products as required by this article.

Same as Senate version.

No equivalent provision.

(d) Requires the comptroller, not later than June 1, 2006, to create and distribute the list required by Section 161.655, as added by this section.

Same as Senate version.

Senate Bill 1863
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION	HOUSE VERSION	CONFERENCE
No equivalent provision.	(e) Establishes that a person is not subject to a penalty for a violation of Subchapter V, Chapter 161, Health and Safety Code, as added by this article, before September 1, 2006.	Same as Senate version.
No equivalent provision.	(f) Saving provision for the article.	Same as Senate version.
No equivalent provision.	(g) Provides that the article takes effect September 1, 2005, except that Sections 161.657-161.660, Health and Safety Code, take effect September 1, 2006.	Same as Senate version.
No equivalent provision.	SECTION 12.03. (a) Reenacts and amends Article 59.01(2), Code of Criminal Procedure, as amended by Section 2.141, Chapter 198, Section 17, Chapter 257, and Section 3, Chapter 649, Acts of the 78th Legislature, Regular Session, 2003. Amends the definition of "contraband" to include property of any nature use or intended to be used in the commission of a Class A misdemeanor or state jail felony under Subchapter U, Chapter 161, Health and Safety Code. Makes conforming changes.	Same as Senate version.
No equivalent provision.	ARTICLE 13. COMMERCIAL DRIVER'S LICENSES	Same as Senate version.
No equivalent provision.	SECTION 13.01. Amends Section 522.021(a), Transportation Code. Requires that, if an application for a commercial driver's license or commercial driver learner's permit is for a nonresident commercial driver's license and the applicant is a resident of a foreign jurisdiction, the	Same as Senate version.

Senate Bill 1863
Conference Committee Report
Section-by-Section Analysis

SENATE VERSION

HOUSE VERSION

CONFERENCE

application must include a copy of a social security card or a passport issued to the applicant by the country of which the applicant is a resident and a visa, each containing an identification number and an expiration date.

No equivalent provision.

SECTION 13.02. Amends Section 522.029(a) and adds Section 522.029(j), Transportation Code. Establishes that THE fee for a nonresident commercial driver's license is \$100.

Same as Senate version.

No equivalent provision.

SECTION 13.03. Amends Section 522.051(a) and adds Section 522.051(f), Transportation Code. Provides that a nonresident commercial driver's license issued to an applicant who submitted a copy of a visa expires on the date the person's visa expires.

No equivalent provision.

ARTICLE 9. EFFECTIVE DATE

ARTICLE 14. EFFECTIVE DATE

ARTICLE 20. EFFECTIVE DATE

SECTION 9.01. Emergency clause; effective date.

SECTION 14.01. Same as Senate version.

SECTION 20.1. Same as Senate version.